

Plaintiff: Harris Winns (Pro Per)

Harris Winns v. BSTZ

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Harris L. Winns  
2610 Sierra Vista ct.  
San Jose, CA. 95116  
(408) 835-8872  
*In Propria Persona*

*cl PVT*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

HARRIS L. WINNS

**Plaintiff,**

**v.**

Case No:

**C 08 02622**

**PVT**

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN,  
LLP. (Anthony Intil, an individual; Candy  
Mielke, an individual; Jim Salter, an individual;  
Michael Mallie, an individual; John P. Ward, an  
individual; Ed Taylor, an individual; Dan  
Devos, an individual; Diane Robson, an  
individual; Lester Vincent, an individual; Steve  
Zelman, an individual; Ronald F. Garrity, an  
individual; Laura E. Innes, an individual; Tarek  
Fahmi, an individual; Charles Wall, an  
individual

**Defendant(s)**

**EMPLOYMENT DISCRIMINATION  
COMPLAINT**

**Demand For Jury Trial**

1. Race Discrimination
2. Section 1981
3. Intentional Infliction of Emotional Distress
4. Deprivation of Employment
5. Violation of Title VII
6. Violation of Public Policy
7. Malicious prosecution
8. Abuse of process
9. Conspiracy
10. Section 1985 (3)

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**Defendants:**

Anthony Intil, in his official capacity  
as Technical Support Specialist  
1279 Oakmead Pkwy.  
Sunnyvale, CA. 94805 (408) 720-8300

Candy Mielke, in her official capacity  
as Director of Operations  
2029 Stierlin Court (*former BSTZ I.S. Dir.*)  
Mountain View, CA. 94043 (650) 687-3560

Jim Salter, in his official capacity  
As Senior Counsel (*former BSTZ Managing Partner*)  
150 Almaden Blvd. #900  
San Jose, CA. 95113 (408) 278-4040

Michael Mallie, in his official capacity  
As Managing Partner  
1279 Oakmead pkwy.  
Sunnyvale, CA. 94805 (408) 720-8300

John P. Ward, in his official capacity  
as Shareholder/Attorney  
1900 University ave. (5<sup>th</sup> floor)  
Palo Alto, CA. 94303 (*former BSTZ Partner*)  
(650) 328-8500

Ed Taylor, in his official capacity  
As Partner Attorney/Founder  
1279 Oakmead pkwy.  
Sunnyvale, CA. 94805 (408) 720-8300

Dan Devos, in his official capacity  
As Partner Attorney  
1279 Oakmead pkwy.  
Sunnyvale, CA. 94805 (408) 720-8300

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1  
2 Diane Robson, in her official capacity  
3 As HR Manager  
4 1279 Oakmead pkwy.  
5 Sunnyvale, CA. 94805 (408) 720-8300

6 Lester Vincent, in his official capacity  
7 As Partner Attorney  
8 1279 Oakmead pkwy.  
9 Sunnyvale, CA. 94805 (408) 720-8300

10 Steve Zelman, in his official capacity  
11 As Chief Financial Officer (310) 207-3800  
12 12400 Wilshire Blvd. (7<sup>th</sup> floor)  
13 Los Angeles, CA. 90025-1030

14 Tarek Fahmi, in his official capacity  
15 As Partner  
16 1279 Oakmead pkwy.  
17 Sunnyvale, CA. 94805 (408) 720-8300

18 Laura E. Innes, in her official capacity  
19 as Partner (*Simpson, Garrity & Innes*)  
20 601 Gateway Blvd. Ste. #950  
21 South San Francisco, CA. 94080  
22 (650) 615-4860

23 Ronald F. Garrity, in his official capacity  
24 as Partner (*Simpson, Garrity & Innes*)  
25 601 Gateway Blvd. Ste. #950  
26 South San Francisco, CA. 94080

27 Charles Wall, in his official capacity  
28 as owner and Sr. Investigator (*CC Invest.*)  
6920 Santa Teresa Blvd. Ste. #208  
San Jose, CA. 95119  
(408) 578-0300

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I.

**NATURE OF ACTION**

1. This is a civil rights case involving a law firm's blatant disregard for the Basic rights of dignity, respect, and fair treatment following a complaint of racial harassment made by one of its African-American male employees-Harris Winns.

2. These acts render Defendant violation of California's Fair Employment and Housing Act, common law provisions as to wrongful termination in violation of public policy.

3. As a direct consequence of these unlawful acts, Plaintiffs have suffered economic, consequential and other damages, all to its detriment. Defendant's actions and inactions forced Plaintiff to hire attorneys and file suit and, therefore, incurred substantial attorneys' fees and costs.

II.

**JURISDICTION AND VENUE**

4. The substantial majority of the acts complained of herein occurred in the state of California, in the county of Santa Clara, and venue is proper herein.

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4 5. Jurisdiction is proper because all Defendants reside in the state of  
5 California and each conduct a substantial amount of business therein,  
6 purposefully availing themselves of the laws of this state, and the  
7 corporate Defendants also have offices in this state.  
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11 **III.**

12 **AGENCY**

13 6. Plaintiff is informed and believes and upon such information and belief  
14 alleges that defendants, each of them, at all times herein mentioned were the agents,  
15 employees, servants, joint ventures, and/or co-conspirators of the remaining  
16 defendants, and were acting in the course and scope of such agency, employment, joint  
17 venture, and/or conspiracy; that defendants, and each of them, were doing the things  
18 herein alleged, were the actual and/or ostensible agents of the remaining defendants  
19 and were acting within the course and scope of said agency; and that each and every  
20 defendant, as aforesaid, when acting as a principal, was negligent in selecting, hiring,  
21 supervising and continuing the employment of each and every defendant as an agent,  
22 employee or joint venture; and/or that said defendants approved, supported,  
23 participated in, authorized, and/or ratified the acts and/or omissions of said employees,  
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agents, servants, conspirators, and/or joint ventures.

IV.

PARTIES

7. HARRIS WINNS ("Plaintiff WINNS") is an individual and at all relevant times was employed in the county of Santa Clara, in Northern California.

8. The individual defendants are individuals who are all relevant times were residing and working in Santa Clara County.

9. Defendant BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP. ("Defendant BSTZ") is a California limited liability partnership in Santa Clara County.

11. The true names and capacities, whether individual, corporate, associate or otherwise, of Defendant Does 1 through 20, are unknown to Plaintiff, who therefore sues said Defendants by such fictitious names. Plaintiff will amend this Complaint by inserting the true names and capacities of each such Defendant, with appropriate charging allegations, when they are ascertained.

12. Plaintiff is informed and believes and thereon alleges that each of the Defendants designated herein as a "DOE" is responsible in some manner

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1 for the injuries suffered by Plaintiff and for damages proximately caused  
2 by the conduct of each such Defendant as herein alleged.

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4 13. At all times herein mentioned, each of the individual Defendants were the  
5 agents, managing agents, servants and employees of the remaining  
6 Defendants, and each of them, and at all times herein mentioned, was  
7 acting within the course and scope of said agency, service and  
8 employment.  
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13 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**  
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15 14. Plaintiff WINNS has filed complaints with California's Department of Fair  
16 Employment and Housing and Equal Employment Opportunity Commission and  
17 received right to sue letters. Plaintiffs have therefore exhausted their administrative  
18 remedies.  
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22 This employment discrimination action is brought pursuant to Title VII of the Civil  
23 Rights Act of 1964 and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a, a  
24 thorough and intentional violation of 42 U.S.C. 1983, equitable and other relief is sought  
25 under 42 U.S.C. Section 2000e-5(g). In addition, Defendants have maliciously, hatefully  
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1 and intentionally violated California Labor Code Sections 1050, 1052 and has willfully  
2 trampled upon, and therefore, attached themselves to the stipulations set forth in Labor  
3 Code Section 1050 and 1054.  
4

5  
6 For purposes of this complaint, the term "Defendants", where not otherwise qualified,  
7 shall refer to all named Defendants individually or collectively, and when used in  
8 conjunction with allegations of unlawful conduct, shall mean that each Defendant  
9 committed such act and/or is legally accountable for such act(s) either in concert with  
10 others, even if it involves a willing third or fourth party or as a willing sole participant,  
11 fully conscious and without cognitive impairment.  
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16 Furthermore, Blakely, Sokoloff, Taylor & Zafman, will alternately be referred to herein,  
17 and within the confines of the four corners of this document sometimes as "Defendants,  
18 They, Respondents, Declarants or Blakely-Sokoloff."  
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### 22 Background

23 I provided technical support as a Technical Support Engineer at Blakely, Sokoloff,  
24 Taylor & Zafman, herein, sometimes referred to as BSTZ, a patent firm located in  
25 Sunnyvale, CA.; from February 2000 to February 2002. Respondent terminated me  
26 because of my unwilling involvement in a verbal dispute with a so called co-worker,  
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1 Defendant Anthony Intil, approximately 6'0, 200 pounds. on 2.13.02. Defendant  
2 Candace Mielke (White female), Director of Information Systems (I.S.) came into our  
3 workspace and asked Anthony, "how are thing going between you and Harris"? He  
4 responded to her by stating in a loud tone of voice, "I don't care about that punk ass  
5 bitch". An argument ensued that lasted approximately (2) minutes. He then got up from  
6 his chair and approached me in an offensive manner at my desk of the common  
7 workspace that we shared. He had both fists clenched as if in preparation in an attempt  
8 to strike me. I then stood up from my desk in a defensive manner to protect myself. The  
9 supervisor ran over from the entrance of our workspace and stepped in between us to  
10 halt what could've resulted in a physical altercation. He got within (3) feet of me. After  
11 calming us both down, the supervisor then sent us both home early for a supposed  
12 cooling-off period.  
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19 The next morning on (2.14.02), there was a formal counsel letter on my desk explaining  
20 the incident that took place the day before in detail. The letter also gave us both a  
21 warning that another incident such as this would not be tolerated in the future. The  
22 supervisor then went on to say that if it did happen again, we both could either be  
23 reprimanded again or have our employment terminated with the company. Well,  
24 approximately (2) hours later that same day (2.14.00). I was asked by Defendant Mielke  
25 to report to her office because Defendant Wilson, White female/firm administrator  
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1 wanted to speak with me. I got up from my desk and entered Candace's office. I sat on  
2 the opposite side of the table where Defendant Wilson sat in the supervisor's office.  
3 Defendant Wilson said, "the firm's partners have decided collectively to terminate your  
4 employment because of the argument with Anthony, so, here is your final pay check,  
5 severance pay and another check for vacation and sick-leave accrual." I was surprised  
6 and became very emotional. During the remainder of the conversation with Defendant  
7 Wilson, I was asked to sign a few documents under emotional duress. Prior to signing  
8 the documents, I attempted to ascertain from Karen why was I being terminated. She  
9 became quite adamant that I sign the documents immediately and that there was  
10 nothing she could do to overturn or even question the decision of firm's partners. The  
11 monotone of her voice expressed "haste". Defendant Wilson then interjected, "you must  
12 sign these documents before we could give you the checks." "After signing the  
13 documents, you must leave the premises immediately." I was not given adequate time  
14 to read the documents and absorb the true meaning that it secretly harbored. While  
15 having this meeting with Defendant Wilson,.. Anthony Intil and Dave Montoya,  
16 Telecommunications Engineer, approximately 6'2 230 pounds, continuously paced back  
17 and forth near the entrance of Defendant Mielke's office where the terms of my  
18 termination were being discussed. At one point, Defendant Intil stood at the door and  
19 stared at me in a hostile manner with his fists clenched again for approximately (1)  
20 minute. The distance from the table where I sat, to the entrance of her office totaled  
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1 approximately (7) feet in distance. I signed the documents because I believe that his  
2 defensive stance near the entrance represented a non-verbal but physical threat that  
3 could've resulted in physical bodily injury to me if I did not sign the documents. I  
4 believe that he stood at the door as an enforcer to induce my cooperation with regard to  
5 signing any documents that was placed in front of me by Defendant Wilson or  
6 Defendant Mielke. Although my former co-worker initiated the argument, I was  
7 terminated. Therefore, I basically got terminated for defending myself. My former co-  
8 worker, Defendant Intil was not terminated and continues to work for BSTZ and in  
9 essence, continues be rewarded for his complicity in bringing about my constructive  
10 discharge from BSTZ.  
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16 BSTZ failed offer me the opportunity to work at another branch (San Jose, Ca.) of the  
17 company. They acted unreasonably and refused to explore other options so that I could  
18 continue to participate in the labor market and be in a position so that I could provide  
19 for my family and myself. Even if it were a job that was not of my normal classification,  
20 I would've gladly taken it. For the reason just stated, the respondent's actions were  
21 egregious, planned, orchestrated and constructive to its very core while engineering my  
22 termination.  
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1 I believe that the respondent's actions were vividly racist as well. They've utilized  
2 Anthony as an instrument to interface with me in a confrontational manner.  
3  
4 Additionally, their actions were pretextual and oppressive in an orchestrated and  
5 constructive campaign to hide their true racist intentions. By design, they've attempted  
6 to "side step" the federally protected statutes by using Anthony (Black male, Ghana  
7 national) as an agent to conduct its "dirty work" in addition to and perhaps,...deflect  
8 and foreclose upon possible future liability on the basis of race. BSTZ was deliberate,  
9 calculating and egregious in its determination and mean-spirited conviction to  
10 terminate my employment and intentionally dis-enjoin my participation from the labor  
11 market. Their actions have caused my family and I to suffer immensely and we  
12 continue to suffer from the suffocating effects of Blakely-Sokoloff's actions from over  
13 five years ago. It appear that these Declarants incorrectly believe that they could do this  
14 to my family and I without having to eventually pay a price for maliciously,  
15 connivingly and hatefully doing so. Apparently, BSTZ falsely held in mind thought  
16 they could do this to my family for free. THEY should brace themselves, for I'm not  
17 only going to expose them for who THEY truly are but, ...prove them wrong in naked  
18 view of the jury, the presiding judge and in addition to whom ever they may retain to  
19 represent them.  
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1 Furthermore, Defendant Karen Wilson, firm Administrator, states within her Ex Parte  
2 application for a Temporary Restraining Order against me that, due to her experience  
3 and witnessing of a massacre at another firm in the City of San Francisco that in  
4 essence, it appeared that I would commit a massacre as well. If I had a friend that work  
5 professionally in a field that studied the behavior of individuals and another friend of  
6 mine displayed behavior that included persistent, unsolicited initiation of conversations  
7 and thought patterns that always and eventually lead to an event that took place years  
8 before, I'd probably believe that my friend was suffering from some type of "Post  
9 Traumatic Stress Disorder". A portion of being a good friend is to be honest, and that  
10 friend in particular would be referred immediately, so that he may be able to process  
11 this far removed experience and quit attempting to buttress unfounded fear with  
12 current events that has no realistic connection whatsoever to another event that  
13 transpired years before, in an attempt to justify recent trifling, and in fact, wrongful  
14 acts.  
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22 Additionally, I had previously reported to Defendant Mielke that Defendant Intil made  
23 spontaneous statements to no one specific, but always, it seems to be mad in my  
24 presence, such as, "we could take this outside and knuckle up." Furthermore, I also  
25 informed her that I did not appreciate the manner in which Defendant John Ward spoke  
26 to me on more than one occasion. The manner in which he spoke to me was always  
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1 from a belittling angle. To my knowledge, nothing was ever done to quell the empty  
2 chatter that continuously emanated from these two individuals in particular. She  
3 should be ashamed of herself.  
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8 Moreover, Charles Wall, owner and Sr. Investigator at CC Investigations, an  
9 investigative agency hired by Blakely-Sokoloff, stated that on February 16<sup>th</sup>, 2002, at  
10 6:30pm, he saw me checking the doors and peering through the windows of a building  
11 on my former employer's property. The attorneys that represented Blakely-Sokoloff,  
12 brought up this supposed incident at the preliminary hearing. I then stated to the judge  
13 and the attorneys representing BSTZ that: "If this investigator saw someone on my  
14 former employer's premises, well, why didn't he call the police and had that individual  
15 arrested or at a minimum, gave chase in his automobile in hopes of capturing this  
16 trespasser?" The judge's chamber became very quiet for a few seconds after posing this  
17 question but the attorneys that represented my former employer never answered this  
18 particular question. Therefore, it must be concluded that the investigative agency that  
19 was hired by BSTZ failed to do their jobs, which was to provide security and I would  
20 assume surveillance of BSTZ's premises as well. Obviously, this individual that the  
21 Investigator allegedly saw, appears to have been either a figment of his imagination;  
22 perhaps the residual effects of sleep deprivation; perhaps an altered state of mind due  
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1 to the after effects of a controlled substance that was consumed prior to reporting to  
2 duty that it impaired his judgment so greatly that he surpassed the threshold of a  
3 heightened state of grandiose delusion. Additionally, Defendant Wall retired from San  
4 Jose Police Department as a Detective. He states in his Ex Parte for a restraining order to  
5 be placed against me that he saw me on six separate occasions on the premises of  
6 Blakely-Sokoloff. But yet, he doesn't have any video footage of anyone on the premises  
7 of my former employer's premises. Again, he failed miserably to do his job, thereby  
8 neglecting his duties. He shouldn't be so proud to state this openly, especially within  
9 the four corners of a legal document. Any reasonable person would've anticipated this  
10 trespasser to return, giving ample opportunity to setup additional video surveillance to  
11 capture this individual on video committing whatever crime he/she was intending to  
12 commit from many different angles. At such a late stage in his career, Defendant Wall  
13 should not have made such a gross miscalculation of judgment. It appears that some  
14 individuals have an affinity for insulting their own intelligence or lack thereof.

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22 I surmise that the investigator's credibility or emotional state would've been called into  
23 question had he called the local authorities and subsequently was unable to give them a  
24 full or partial description of the supposed trespasser and that the authorities were  
25 unable to find any subsequent forensic evidence on the door handle other than the  
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1 individuals that had a legitimate reason for their finger-prints to be present on the door  
2 handle in the first instance.  
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5 More fundamentally, I believe that the above-mentioned statement made by this so  
6 called investigator was done so with the specific intent, so as to enhance the appearance  
7 and foster the perception of my character as one that's fully immersed with criminal  
8 intentions and that my state of mind was teetering on the brink of a mental melt-down,  
9 due to the employment termination by Blakely-Sokoloff. It appears that this is the  
10 attitude harbored by some that gives rise to the notion of a false, demeaning and  
11 derogatory notion that minorities in general and African-American men in particular,  
12 are innately and inherently fused with characteristic traits that are criminal in nature  
13 from the onset of birth. This is the type of attitude and behavior that makes me wonder:  
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15 *What are the dynamics within the mental confines of individuals and groups that harbor these*  
16 *hateful and feeble-minded perceptions?*  
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22 In some, BSTZ performed the deeds. In none, did BSTZ prevent the deed. In none did  
23 BSTZ take a cursory glance at my claims prior to termination. In none, did BSTZ punish  
24 the deeds. Therefore, it must be deemed an act that was committed with malicious and  
25 specific intention to inflict emotional stress, humiliation and an abundance of mental  
26 anguish leading to somatic injuries against my person because I'm African-American.  
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2 Furthermore, after I was terminated, and two weeks prior and after Blakely-Sokoloff  
3 took me to court, it appears that CC Investigations, an investigative agency hired by  
4 BSTZ tailgated my family and I everywhere we went. My wife and I were in a state of  
5 emotional duress including fearing for the rest our family's safety as well. In fact, the  
6 individual that followed my wife and I actually rode the same elevator with my wife  
7 and I, including the attorneys that were representing Blakely-Sokoloff. The attorneys  
8 representing Blakely-Sokoloff pretended as if they did not recognize the tall, slender,  
9 blonde White-male. This was so staged. I sincerely believe that the experts in  
10 Hollywood couldn't have written a more fined-tuned and bogus script. Additionally,  
11 when my wife started crying in court, due to her realizing the extent to which seasoned  
12 attorneys would stretch a lie to actively and further conceal the truth, Laura Innes,  
13 attorney for Blakely-Sokoloff, attempted to console her, this condescending act alone  
14 made my stomach churn violently.  
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22 Some time in mid or late April of 2002, my wife and I sat in my attorney's office and  
23 asked her if the restraining order would prevent me from obtaining employment. My  
24 attorney immediately telephoned Laura Innes, who then told my attorney that the  
25 restraining order would not in any fashion, shape or form prevent me from getting  
26 another job. This is another LIE. In fact, It's extremely hard to believe that Defendant  
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1 Innes did not know the results of a permanent injunction. She has given many lectures,  
2 gotten involved in holding workshops for further training of managers, in addition to  
3 writing articles on the topic various employment issues, including the arbitration of  
4 employment issues and effective use of termination agreements, and is a frequent  
5 speaker to client and community groups. Therefore, Defendant Innes knew or should  
6 have known that this restraining order would eventually cause an abundance of  
7 upheaval and unrest in my life. At bottom, it appears that this entire ordeal was  
8 planned and orchestrated with a specific intent,....that intent was to destroy me. Only  
9 by the grace of God, I'm still standing.  
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15 On April 8<sup>th</sup> 2002, during the afternoon my wife noticed a Red and White early model  
16 Ford Bronco with California License plate (#4TNJ464) parked near the entrance of the  
17 cul-de-sac area of her parent's residence, which is where we resided at that time. The  
18 driver was a White Male with blonde hair who appeared to be approximately (30) years  
19 old. The following morning, the same vehicle was parked near the end of the street  
20 where we reside. I was able to take a picture of the person driving the vehicle as well. I  
21 then went to San Jose Police Dept. to have them verify whom the vehicle was registered  
22 to. The officer at the desk informed me that the vehicle was registered to an individual  
23 by the last name of "Tarrant" from the Los Angeles area. The officer said that he was  
24 unable to divulge any other information regarding this individual. The officer also  
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1 stated that if we saw this vehicle again, that we should immediately notify them. Here,  
2 it would not be far-fetched to believe that respondent dispatched this individual to  
3 serve a dual purpose. First and foremost, to conduct a "scare tactic" in an attempt to  
4 produce extreme fear to the extent that I'd be intimidated to the point of not filing a  
5 lawsuit. Secondly, the driver of the Ford Bronco is an individual far removed from the  
6 San Jose area, which gives the initial appearance that there is no connection with  
7 respondent. But, BSTZ's headquarters office is located in Los Angeles. I presume that  
8 this was a slight oversight on their part to select an individual from the Los Angeles  
9 area to conduct surveillance on my family and I, whom obviously didn't have the  
10 appropriate training or "know how" in order to remain inconspicuous and incognito to  
11 conduct such an operation in the first instance. I was merely looking for another job in  
12 order to provide for my family and myself.  
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19 Moreover, it appears that BSTZ incorrectly believes that they're above the law and  
20 therefore, inoculated against being compelled to answer questions put forth by me from  
21 the plaintiff's side of the courtroom. Furthermore, it appears that respondents continue  
22 hold a rigid posture befitting that of an organization that believes that they're  
23 privileged and therefore does not in any manner, shape or form intend to take  
24 responsibility for their adverse actions. Even if those actions are the direct result of  
25 impoverishing a former employee's family. THEY should be ashamed of themselves.  
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2 Any individual who purports to have an affinity for the law and swore to uphold it and  
3 then subsequently and intentionally fails to do so, whenever and wherever injustice  
4 raises its ugly head and presents itself, I'll submit to you,.... *a law breaker*.  
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9 Indeed, it was and still is vividly clear that the overarching objective here was to  
10 willingly fail to yield to public policies relative to employment terminations; willingly  
11 fail to abide by the firm's own policy and procedures; willingly fail to yield to  
12 guidelines set forth in case law precedents; willingly and contemptuously attempted to  
13 foster the false perception of my character as an individual imbued with the personality  
14 traits of a "disgruntled" former employee and that my state of mind for three years was  
15 full of rage and hell-bent on revenge. Blakely-Sokoloff's entire theory relative to my  
16 discharge,.... IS A LIE.  
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22 Here, it is unarguable BSTZ intentionally inflicted extreme emotional distress upon my  
23 family and I. And as a result of the intentional, malicious, reckless, pretextual and  
24 willful acts of retaliation by BSTZ, I have has suffered damage to my reputation,  
25 somatic injuries, (*Murphy v. Internal Revenue Service, 2007 U.S. App.*) loss of earnings and  
26 placed under a glowing light of humiliation and suspicion for 5 years. In fact, due to  
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1 BSTZ's machinations, their collective act has impoverished my family and I to the  
2 extent that we live in squalor to this day. As a direct result of their actions, I'll highlight  
3 our living conditions by pointing to the fact that five of my family members live on one  
4 mattress on the floor, because of our lack of finance to purchase appropriate and  
5 additional furniture.  
6  
7

8  
9 Furthermore, and as a direct result of BSTZ's actions and in addition to what's  
10 highlighted in the previous paragraph, I've been unable to place my kids in preschool,  
11 again, due to a lack of finance. Indeed, my kids will eventually display the effects of  
12 being unable to attend preschool, which would've kept them abreast with other kids  
13 their age in terms of learning and progressing at a normal rate of social interaction and  
14 development. BSTZ has intentionally robbed my kids of this opportunity.  
15  
16  
17

18  
19 Moreover, I was under the care of my doctor due to work related stress and clinical  
20 depression. He will attest to my emotional state and overall condition at the time that I  
21 was willfully, mean spiritedly and constructively discharged by BSTZ.  
22  
23

24  
25 Furthermore, BSTZ was well aware of my situation regarding my doctor and my overall  
26 condition. Therefore, it's obvious that what BSTZ attempted to accomplish here, relative  
27 to stalking my family and I was to produce an abundance of fear through intimidation,  
28

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1 a causative factor for bringing further stress upon my life by introducing and  
2 implementing terroristic and Gestapo type activities targeting my family and I. Perhaps  
3 this was an attempt to overload my sensories to such an extent and deprive them of the  
4 necessary stimulation required for peak performance, that I'd eventually entertain  
5 suicidal thoughts and consequently fall prey to suicide. Perhaps THEY wanted to de-  
6 territorialize my temperament to the extent that I'd be so imbued with frustration due  
7 to being terminated by them that I'd strike back with a vengeance against them. Here, it  
8 is obvious that the collective Defendants grossly miscalculated my strength. If I had  
9 struck back at Defendants, I would've unwittingly and strategically placed THEM in  
10 such an offensive position that THEY could've easily notified the local authorities and  
11 had me placed in confinement,.... if I had acted. And since I possess the internal  
12 wherewithal to resist reacting in regards to their silly game, the plan THEY devised,  
13 miserably failed. In fact, it failed each and every day for five years due to the fact that  
14 each day presented an opportunity for their plan to initialize. That's 1,725 days that  
15 Blakely-Sokoloff strangled the hopes and suffocated the dreams of my family and I.  
16 Even if the mere 120 days that I did work in early 2006 is subtracted from the above-  
17 mentioned figure, its still 1,605 days that my family and I were held in bondage.  
18  
19  
20  
21  
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23  
24  
25 Declarants should be ashamed of themselves.

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Moreover, the firm's policy manual section (1.0) specifically refers to "Equal Employment Opportunities". And further states, "It is the policy of the firm to employ, retain, promote, layoff or terminate and otherwise treat all employees and job applicants solely on the basis of merit, competency, qualification and work performance. Here, BSTZ failed to deliver and act accordingly as promised in regards to its own policy. The firm's mission and Equal Employment policy is in stark contrast to its actual employment practice(s).

**BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN**  
**(policy manual)**

BSTZ's policy manual section (62.0) also refers to "Question and problem resolution procedure. This section states, "If an employee has a problem, talk it over first with his/her supervisor. The supervisor has the authority to settle most employee relation's questions arising in his/her area of responsibility.

Again, BSTZ's policy manual section (52.0) covers "Rules and Standards of Conduct". Section (# 10) states, "Threatening, intimidating, coercing, harassing, or otherwise interfering with the work of fellow employees are considered violations of the above mentioned section and may be grounds for disciplinary action or termination.

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1 Section (# 4) under Rules and Conduct states, "fighting, scuffling, or indulging in  
2 horseplay may also be grounds for verbal or written reprimand, suspension or  
3 termination of any violation of these rules.  
4

5  
6 Respondent is an at-will employer but this does not give them immunity from adhering  
7 to *Title VII of The Civil Rights Act of 1964 and 1991*, nor does it absolves them of their  
8 responsibilities to terminate an employee without "good cause".  
9

10  
11  
12 I was never given an opportunity to explain the incident in full, regarding the issues of  
13 my termination, nor did BSTZ's management make a good faith effort to conduct a  
14 proper investigation regarding this incident. Again, it appears that the firm has  
15 developed a pattern of refusing to adhere to; and continues to deliberately nullify its  
16 own written policy by clinging to the "at-will" employment theory as if this legal  
17 misnomer issues *carte blanche* authority to terminate an employee under any and all  
18 circumstances. Even if a former employee's civil rights were intentionally uprooted in  
19 the process of termination, still, Defendants displayed an abundance of indifference  
20 from a collective standpoint. Defendants may have had the right to terminate me under  
21 the doctrine as an "at-will" employee but, THEY did not possess the right to deprive me  
22 of liberty of employment by broadcasting UNTRUTHS and thereby impugning my  
23 character. Even if this was accomplished through a third party, fourth party in addition  
24  
25  
26  
27  
28



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1 to the utilization of electronic means, there is still an element of direct, willful and  
2 casual attachment that has a trajectorial path that leads directly back to the originator of  
3 these LIES.  
4

5  
6 Here, Defendants intentionally failed to adhere to the *Due Process Clause* in addition to  
7 violating the (5th and 14<sup>th</sup> amendments) to the United States' Constitution with respect  
8 to them intentionally arresting my liberty to freely obtain employment and provide for  
9 my family and I without them strategically applying restraints and tortuously utilizing  
10 the judicial process to provide cover. Defendants knew or should have known  
11 individually and/or collectively that what they were doing was egregious, pretextual,  
12 malicious and outright wrongful in addition to being an affront to the State of  
13 California's constitution and the United States' constitution as well. It appears that  
14 Blakely-Sokoloff incorrectly believed that they could do this to my family and I for free  
15 and avoid having to eventually pay a price for wrongfully doing so.  
16  
17  
18  
19  
20  
21

22 Little did I know that immediately after being wrongfully terminated, that I'd be  
23 catapulted headlong into an abyss of frustration, disappointments, stress,  
24 unemployment and rejections by potential employees that lasted five horrific and  
25 nightmarish long years.  
26  
27  
28

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1 Prior to this so-called "Workplace Violence Restraining Order" expiring on April 30<sup>th</sup>  
2 2007, I rarely received a response from an employee after submitting an employment  
3 application or resume regarding a vacancy. In fact, if I did receive a response, more than  
4 likely, it was an auto generated response stating in general, "we will review your  
5 qualifications and if we deem that you are a good match for the vacancy in question we  
6 will contact you to set-up an interview. If not, we will keep your resume on file for (6)  
7 months." Which is to say in other words, "not only do we believe that you're a criminal  
8 but, a violent criminal. This is according to court and police records. Therefore, we  
9 cannot and will not take a chance on hiring someone like you who is evidently  
10 atrociously imbued and fraught with violent tendencies." In general, the same thing  
11 happened when I applied for an apartment. I was continuously rejected due to  
12 Defendants intentionally creation of an aura of fear, suspicion and lie in wait regarding  
13 my character.  
14  
15  
16  
17  
18

19  
20  
21 More fundamentally, by May 30<sup>th</sup>, 2007, one month after this so-called "workplace  
22 violence restraining order" expired, I had attended (4) interviews. Prior to the "order"  
23 lapsing, I hadn't been invited to an employment interview in (6) years. This is even  
24 further indicative of defamation against my person due to Defendants intentional,  
25 malicious and pretextual acts. In fact, I was hired on June 1<sup>st</sup>, 2007, one month after the  
26 expiration of the restraining order. This is unquestionably further indication that the  
27  
28

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1 restraining order was intentionally utilized as an instrument not only to defame my  
2 good name but, also to deprive me of, and therefore, cripple my attempts to gain  
3 employment.  
4

5  
6 One of the burning questions here are: How could individuals who profess themselves  
7 to be abundantly intelligent, abundantly fair, overwhelmingly benevolent and possess  
8 an astoundingly high level of affinity for the United States' constitution and State laws  
9 that have with stood the test of time, but yet, consistently get it wrong? It is of my  
10 opinion that the only manner in which individuals or groups to do this is to  
11 strategically cultivate, nurture, plan and subsequently spring forth ideas, projects and  
12 events that are fraught with malice in the first instance. This is not justice....., this is the  
13 antithesis of justice, cloaked and perpetrating a fraud in the outer garb as justice.  
14

15  
16 **The State Bar of California Rules of Professional Conduct**  
17 **Rule 2-400. Prohibited Discriminatory Conduct in a Law Practice**  
18

19  
20 (A) For purposes of this rule:  
21

- 22 (1) "law practice" includes sole practices, law partnerships, law corporations,  
23 corporate and governmental legal departments, and other entities which  
24 employ members to practice law; (2) "knowingly permit" means a failure  
25 to advocate corrective action where the member knows of a  
26 discriminatory policy or practice which results in the unlawful  
27 discrimination prohibited in paragraph (B); and  
28

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(2) "knowingly permit" means a failure to advocate corrective action where the member knows of a discriminatory policy or practice which results in the unlawful discrimination prohibited in paragraph (B); and

(3) "unlawfully" and "unlawful" shall be determined by reference to applicable state or federal statutes or decisions making unlawful discrimination in employment and in offering goods and services to the public.

(B) In the management or operation of a law practice, a member shall not unlawfully discriminate or knowingly permit unlawful discrimination on the basis of race, national origin, sex, sexual orientation, religion, age or disability in:

(1) hiring, promoting, discharging, or otherwise determining the conditions of employment of any person.

### Adverse Employment Action Motivated by Protected Activity

An employee can prevail in showing that adverse employment action was motivated by protected activity where there is direct evidence of discrimination. *TWA v. Thurston*, 469 U.S. 111, 121 (1985); *Walker v. Prudential Property & Casualty Insurance Co.*, 286 F.3d 1270, 1274 (11 Cir. 2002). Direct evidence of discrimination is evidence that "will prove the particular fact in question without reliance on inference or presumption." *Pitasi v. Gartner Group, Inc.*, 184 F.3d 709, 714 (7th Cir. 1999). Such "evidence must not only speak directly to the issue of discriminatory intent, it must also relate to the specific employment decision in question." *Id.* In the absence of direct evidence of discrimination, a complainant makes out a *prima facie* case of retaliation by showing he

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1 or she is a member of a protected class, that he or she engaged in protected activity, that  
2 the respondent took adverse action, and that the respondent had knowledge of his or  
3 her protected activity. The threshold for establishing a prima facie case is low and the  
4 amount of evidence needed to "infinitely less than what a directed verdict demands."  
5 *Saint Mary's Honor Center v. Hicks*, 509 U.S. 502, 515, 113 S. Ct. 2742, 2751, 125 L. Ed. 2d  
6 407 (1993). The burden then shifts to the respondent to produce legitimate  
7 nondiscriminatory reasons for taking the adverse employment action. *Reeves v.*  
8 *Sanderson Plumbing*, 530 U.S. 133, 142, 120 S. Ct. 2097, 2106, 147 L. Ed. 2d 105 (2000);  
9 *Walker v. Prudential Property & Casualty Insurance Co.*, 286 F.3d 1270, 1274 (11 Cir. 2002).  
10 C. f. 42 U.S.C. § 5851(b)(3)(B) (2002) (stating that in ERA cases the employer must show  
11 by "clear and convincing evidence that it would have taken the same unfavorable  
12 personnel action in the absence" of any protected activity); *Dysert v. United States*  
13 *Secretary of Labor*, 105 F.3d 607 (11th Cir. 1997). The respondent's burden is one of  
14 production and not of persuasion.

21  
22 **Letter to Laura Innes**  
23 **(Simpson, Garrity & Innes of So. San Francisco)**  
24

25 Laura, your client have placed my life under siege, aggravatedly assaulted us and has  
26 bared witness in amusement as my family and I lives have atrophied. My life has been  
27 emaciated by Blakely, Sokoloff's knee-jerk reaction in an effort to taint and stifle any  
28

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1 suit that I would've filed. This is the cusp of their actions and it's imperative that they  
2 "fix it".  
3  
4

5 As a direct result of BSTZ's adverse actions, I've listed below, a few things that will  
6 assist in painting a graphic picture of what has happened since being terminated:

- 7 1) My wife and I, four kids, (6) individuals total, live in one room. (imagine that, it's  
8 not a Master bedroom either.)
- 9 2) I've had my automobile repossessed. (credit status: rock bottom)
- 10 3) My wife and I had to apply for and received Social Service assistance.
- 11 4) I was unable to obtain employment because of the restraining order.
- 12 5) My family and I have had to move from California to the state of Washington in  
13 an attempt to lessen the economic impact on our lives.
- 14 6) My wife and I were unable to get an apartment because of the restraining order.  
15 (Again, the potential landlord feared having a violent tenant on the premises  
16 after conducting a background check.)  
17  
18

19 All of my troubles listed above, among others, are all manifestations of the aftermath of  
20 the restraining order. The nexus between the injunctive relief and my current dilemma  
21 is overwhelming. I would've much rather been layed off by Blakely, Sokoloff. At least  
22 then, BSTZ wouldn't have had the opportunity to have the contents of my life strewn  
23 about on a pathway of lies in a malicious and hateful manner. Instead, they've chosen to  
24 drastically reduce my ability to control the destiny of my own life and all the while,  
25 relish in their triumph of deceit. They've commandeered the underpinnings of my life  
26  
27  
28

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1 and has purposefully steered it into an abyss without a basement. Yet, telling of the  
2 attitude that exists at Blakely-Sokoloff, I surmise that an abundance of indifference is  
3 what will be their rallying response.  
4

5  
6 BSTZ's impingement on my life has forever scarred my employment record in a manner  
7 that has left me with the balance of an unexplained five-year unemployment gap. How  
8 am I supposed to explain this to potential employers? What do you propose that I tell  
9 them Laura? Respondent knew or should have known that the manner in which my  
10 employment was terminated was illegal and facially unconstitutional. It appears that  
11 your client was/is under false impression that the term "at-will" employment dispenses  
12 and affords them cart-blanche authority and protection during a judicial or  
13 administrative hearing. I will place their incorrect notion to the test under cross-  
14 examination.  
15  
16  
17  
18  
19

20 Laura, criminals come in many different forms, styles, gradients and variations.  
21 Criminals report to duty rather they're in a three-piece "Brooks Brother's" suit or the  
22 infamous white sheet of the "KKK". Moreover, high-ranking officials from Enron and  
23 Worldcom, among others, have been tried, convicted and subsequently escorted to  
24 prison in handcuffs for their complicity in the defrauding of millions of shareholders.  
25  
26 My point is, criminality is criminality, regardless of who the perpetrator is or what the  
27  
28

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1 outer garb of the day may be. Rather it be an individual or a group acting in concert  
2 covertly and relentlessly to achieve the proverbial goal; "the end justifies the means".  
3  
4 Clearly, this is the mode of action that BSTZ employed against my family and I. THEY  
5 will eventually pay a heavy price for doing this to my family and I in the appropriate  
6 arena.  
7

8  
9 Some things are apparent, and it's apparent that the long out-stretched arm of justice  
10 sometime reaches back in time and is compelled to confront an "injustice and turn it  
11 into justice". It's also apparent that Blakely-Sokoloff committed these acts under an  
12 unfortunately false impression that they wouldn't eventually have to pay a price for  
13 connivingly, maliciously and hatefully doing so. But, the United States' constitutional  
14 has never afforded sanctuary for those opposed to the rule of law, nor does it hold an  
15 affinity for those fervently engaged in the fraudulent concealment of the truth, but  
16 alternatively, it has always repudiated and sometimes crushed those individuals and  
17 organizations that intentionally cultivate and maliciously broadcast and propagate "LIES".  
18  
19 More fundamentally, and in other instances, the long-arm of justice has to reach no  
20 further than the file cabinet across from someone's cubicle and begin to address  
21 capricious behavior from a few years ago and confront it accordingly. There are some  
22 individuals that are no longer with your client's firm for reasons unbeknownst to me.  
23  
24 But, they will eventually be ordered by the appropriate person to come forth and  
25  
26  
27  
28



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1 explain actions, their complicity and knowledge relative to my wrongful termination  
2 and subsequent 5 years of unemployment.  
3  
4

5 Blakely, Sokoloff has put in place the necessary elements of a chain reaction in motion,  
6 causing intentional injuries that were planned and calculated. No less tragic it would  
7 be, if someone were to shove an individual under the carriage of a fast moving street  
8 bus. This act would surely produce injuries, great bodily harm, in all likelihood,... a  
9 fatality. In essence, your client has committed both of the above-mentioned egregious  
10 and abhorrent acts against my character and employment potential so that I would be  
11 unable to provide for my family. The stature of my character and employment potential  
12 has been crippled to the extent that they've both been rendered ineffective and  
13 therefore, impotent. Again, these conditions have been cultivated and nourished by  
14 respondents, and is not of my making.  
15  
16  
17  
18  
19  
20

21 During the summer of 2004, my family and I saw John Ward, former partner at BSTZ at  
22 San Jose's Valley Fair Mall near the Food Court with his toddler Daughter. Apparently,  
23 he didn't recognize me at first, but as soon as he did, he hid behind a pillar. My wife  
24 and I looked at each other in amazement and thought that this was very peculiar for a  
25 man of his age or any man to hide behind a pillar at the local mall. At first, I attempted  
26 to write it off as a Father playing "hide-and-seek" with his Daughter but, my sensories  
27  
28

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1 wouldn't allow me to do so because she was sitting quietly in her stroller. Not only was  
2 this somewhat comical but, on a more serious note, it also gives a glimpse of the current  
3 human condition to a certain extent.  
4

5  
6 That when a man or group begins to believe his or their own concocted LIES, their  
7 behavior will eventually follow and conform to what has already been cultivated,  
8 nurtured and fathomed in their minds. I'm unable to grasp and explain this type of  
9 behavior but there is something amiss here.  
10  
11

12  
13 Parenthetically, it appears that the above-mentioned Defendants either doesn't  
14 understand or intentionally refuses to accept the notion and common sense theory that  
15 the Truth and Untruth will never simultaneously occupy the same space for any length  
16 of time worth calculating. However, It's conceivable that this may be possible for a mere  
17 one-thousandth of a fraction of a second at the most. When the Truth enters into the  
18 same space in which the untruth already improvidently exists, the untruth must  
19 immediately and necessarily disappear.  
20  
21  
22  
23

#### 24 California Labor Code Section 1050

25  
26 Any person, or agent or officer thereof, who, after having discharged an employee from  
27 the service of such person or after an employee has voluntarily left such service, by any  
28

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1 misrepresentation prevents or attempts to prevent the former employee from obtaining  
2 employment, is guilty of a misdemeanor.

### California Labor Code Section 1054

7 In addition to and apart from the criminal penalty provided any person or agent or  
8 officer thereof, who violates any provision of sections 1050 to 1052, inclusive, is liable to  
9 the party aggrieved, in a civil action, for treble damages. Such civil action may be  
10 brought by such aggrieved person or his assigns, or successors in interest, without first  
11 establishing any criminal liability under this article.  
12  
13

14  
15 It still holds true and in general [vol. 271 U.S. 583, 601], that lawful acts or conditions  
16 may become unlawful when done or imposed to accomplish an unlawful end.  
17  
18

19 Moreover, Blakely-Sokoloff had so saturated and bludgeoned my character with the  
20 untruth that, that a former employer, subsequent to BSTZ, who employed me for a mere  
21 (120) days in 2006, eventually and wrongfully in fact, terminated my employment  
22 which was predicated on the basis that my character was hopelessly flawed and  
23 impregnably imbued with violence.  
24  
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26  
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28

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1 Indeed, this entire incident is not aligned with any sort justice but,.....it's indelibly the  
2 antithesis of justice. In any event, it remains to be seen rather or not the Defendants'  
3 collective and incorrectly enunciated position trumps already pronounced case laws  
4 and the United States' Constitution.  
5

### 6 Authorities Regarding Employment Deprivation

7  
8  
9  
10 Posner, Chief Judge, United States District Court for the Northern District of Illinois,  
11 Eastern Division., *Olivieri v. Rodriguez* (7<sup>th</sup> Cir. 1997). "When the character and  
12 circumstances of the defamation are such as to have "foreclose[d] his freedom to take  
13 advantage of other employment opportunities" he can bring a suit based on the  
14 deprivation of his liberty of employment or occupation. *Paul v. Davis*, supra, 424 U.S. at  
15 710, quoting *Board of Regents v. Roth*, 408 U.S. 564, 573 (1972); see also, e.g., *Bigby v.*  
16 *City of Chicago*, 766 F.2d 1053, 1057 (7th Cir. 1985); *Colaizzi v. Walker*, 812 F.2d 304, 307  
17 (7th Cir. 1987); *Johnson v. Martin*, 943 F.2d 15, 16 (7th Cir. 1991).  
18  
19  
20

21  
22  
23 Posner, Chief Judge; *Lawson v. Tippecanoe County* (7<sup>th</sup> Cir. 1984) "the concept of liberty in  
24 Fourteenth Amendment jurisprudence has long included the liberty to follow a trade,  
25 profession, or other calling. This liberty must not be confused with the right to a job;  
26 States have no constitutional duty to be employers of last resort; but if an individual is  
27  
28

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1 excluded a person from a trade or calling, it is depriving him of liberty, which it may  
2 not do without due process of law."

### 3 4 5 Authorities Regarding IIED

6  
7 To sustain a claim for IIED plaintiff must show defendants engaged in "outrageous  
8 conduct, done intentionally or with reckless disregard of the probability of causing  
9 emotional distress, resulting in the suffering of extreme emotional distress, actually or  
10 proximately caused by the outrageous conduct." *Sheltra v. Smith*, 136 Vt. 472, 476, 392  
11 A.2d 431, 433 (1978). Plaintiff's burden on this claim is a "heavy one" as he must show  
12 defendants' conduct was "so outrageous in character and so extreme in degree as to go  
13 beyond all possible bounds of decent and tolerable conduct in a civilized community  
14 and be regarded as atrocious and utterly intolerable." *Dulude*, 174 Vt. at 83, 807 A.2d at  
15 398. The court makes the initial determination of whether a jury could reasonably find  
16 that the alleged conduct satisfies all the elements of an IIED claim. *Jobin v. McQuillen*,  
17 158 Vt. 322, 327, 609 A.2d 990, 993 (1992) (citing Restatement (Second) of Torts § 46,  
18 comment h (1965)).  
19  
20  
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1                                    **Authority Regarding Blacklisting**

2

3 California Labor Code 105, any person, or agent or officer thereof, who, after having

4 discharged an employee from the service of such person or after an employee has

5 voluntarily left such service, by any misrepresentation prevents or attempts to prevent

6 the former employee from obtaining employment, is guilty of a misdemeanor.

7

8

9

10 Here, as a preemptive strike against dark forces that may eventually attempt to infuse

11 the statute of limitations as a defense, I'll submit to you a sound and philosophical view

12 of the principles of the statutes of limitation. *Bailey v. Glover*, 88 U.S. 342, 349 (1875).

13

14 "They were enacted to prevent frauds; to prevent parties from asserting rights after the

15 lapse of time had destroyed or impaired the evidence, which would show that such

16 rights never existed, or had been satisfied, transferred, or extinguished, if they ever did

17 exist. To hold that by concealing a fraud, or by committing a fraud in a manner that it

18 concealed itself until such time as the party committing the fraud could plead the

19 statute of limitations to protect it, is to make the law which was designed to prevent

20 fraud the means by which it is made successful and secure."

21

22

23

24

25

26 In fact, the day I was unshamefully hauled into court by BSTZ's Attorney Ronald F.

27 Garrity, who also represented Blakely-Sokoloff, walked over to the clerk's window and

28

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1 stated to her, "I need a workplace violence restraining order." It should not be this easy  
2 to destroy another man's life through such an unchecked and intentional gross  
3 misrepresentation.  
4

### 5 ADDENDUM

6  
7 Your Honor, I vehemently oppose Blakely-Sokoloff's attempt to strike my complaint.

8 These Declarants have intentionally placed my family and I in an untenable position.

9 In fact, an overwhelmingly uncomfortable position to say the least. Through out the  
10

11 Demurrer of the Defendants, they've rushed to embrace the statute of limitations as if

12 it's the Holy Grail of safety nets designed specifically to safeguard those who have done  
13

14 wrong, by not only violating public policy but, fundamentally crossing the threshold of

15 immorality in a civilized society.  
16

17  
18 Furthermore, I was intentionally placed in a position by Blakely-Sokoloff that

19 essentially barred me from participating in the employment market for 5 years. Here,  
20

21 the element of "exceptional circumstances" will eventually override the statute of

22 limitations raised by these Declarants. Even if I did file my complaint in a timely  
23

24 fashion, the complaint would've still had to be served on the Defendants. Here, it

25 appears that the Defendants are under the incorrect assumption that having a complaint

26 served upon Defendants is universally free of charge. I was intentionally placed in this  
27

28 position so that my family and I would be indigent, suffering and without money so

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1 that a defense could not be mounted against them in court. This is the root of their ill-  
2 conceived plan in the first instance, which is, for my family and I to be without money  
3 for a period that would out stretch the statute of limitations and hope and pray that the  
4 court would bound my case to the already established limitations. At bottom, these  
5 Declarants have intentionally participated in a scheme of which the rules were well  
6 known to them; then subsequently and intentionally break the rules and attempt to  
7 counter founded wrong doing by them, ironically, with what an adversary should have  
8 done, including when he or she should've righted these wrongs.  
9  
10  
11  
12  
13

14 More fundamentally, relative to the defamatory statements regarding me being a  
15 disgruntled and violent former employee of Blakely-Sokoloff, that was made to  
16 individuals within and exterior to the company, I submit (*Popko v. Continental Casual*  
17 *Co.*), additionally, to prove defamation, a plaintiff must show that the defendant made a  
18 false statement about the plaintiff, there was an unprivileged publication to a third  
19 party by the defendant, and the publication damaged the plaintiff. *Gibson v. Philip*  
20 *Morris, Inc.*, 292 Ill. App. 3d 267, 272, 685 N.E.2d 638 (1997). See also *Parker v. House*  
21 *O'Lite Corp.*, 324 Ill. App. 3d 1014, 1020, 756 N.E.2d 286 (2001); *Cianci v. Pettibone Corp.*,  
22 298 Ill. App. 3d 419, 424, 698 N.E.2d 674 (1998). Thus, publication is an essential element  
23 to a cause of action for defamation. *Gibson*, 292 Ill. App. 3d at 275; *Beauvoir v. Rush-*  
24 *Presbyterian-St. Luke's Medical Center*, 137 Ill. App. 3d 294, 300, 484 N.E.2d 841 (1985).  
25  
26  
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28



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1 The communication of interoffice reports within a corporation has previously been  
2 determined to constitute a publication for defamation purposes. Gibson, 292 Ill. App. 3d  
3 at 276; see also *Jones v. Britt Airways, Inc.*,

4  
5  
6  
7 It appears that the Defendants are under the false and incorrect assumption that I  
8 should've filed my complaint and the court system would've graciously served the  
9 papers free of charge on the Defendants, on my behalf. This would've been an  
10 unprecedented move by the court, to say the least.

11  
12  
13  
14 Additionally, I could care less about the fact if an attorney was duly licensed to practice  
15 before all the Courts within the contiguous United States including the US territories,  
16 much less about having the right to do so within California alone. You, and the  
17 Declarants that you represent, will be soundly defeated.

18  
19  
20 Furthermore, it appears that the collective Defendants are approaching this case with an  
21 abundance of trepidation, due to this case primarily revolving around what I've termed  
22 a difficult truth that they've yet to come to terms with from an individual or collective  
23 stand point.  
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1 I declare under penalty of perjury under the laws of the State of California the foregoing  
2 is true and correct. Executed on this 22<sup>nd</sup> day of February, 2008 in San Jose, California.  
3  
4

5 **Judge Lucero, Tenth Circuit Judge**  
6 **(*Alexander v. State Of Oklahoma*)**  
7 ***Exceptional Circumstances***  
8  
9

10 We have previously concluded that exceptional circumstances may justify equitable  
11 tolling of a statute of limitations. See, e.g., (*Van Tu v. Koster*), 364 F.3d 1196, 1199-1200  
12 (10th Cir. 2004). Generally, courts have tolled the statute of limitation when plaintiffs'  
13 failure to file their claims within the statutory period is excused by the defendant's  
14 misconduct. See (*Hilao v. Estate of Marcos*), 103 F.3d 767 (9th Cir. 1996) (holding that fear  
15 of reprisal was extraordinary circumstance justifying equitable tolling on Philippine  
16 nationals' claims against the Estate of Fedinand Marcos for injuries arising from torture  
17 and summary execution); (*Hobson v. Wilson*), 737 F.2d 1, 37 (D.C. Cir. 1984) (tolling  
18 statute because the FBI's concealment of its COINTELPRO activities blinded plaintiffs  
19 to their potential cause of action); (*Rosner v. United States*), 231 F.Supp. 2d 1202 (S.D. Fla.  
20 2002) (taking as true plaintiffs' allegations that the United States wrongfully claimed  
21 that property it seized from the Nazis taken from Hungarian Jews was unidentifiable  
22 and unreturnable, the court equitably tolled the statute); (*Thompson v. Metropolitan Life*  
23 *Ins. Co.*), 149 F. Supp. 2d 38 (S.D.N.Y. 2001) (tolling statute on African-American  
24  
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1 plaintiffs claims against defendant insurance companies for pattern of intentional  
2 discrimination in sales of insurance policies from the late 1800s through the 1970s);  
3  
4 (*Bodner v. Banque Paribas*), 114 F. Supp. 2d 117, 136 (E.D.N.Y. 2000) (finding on claims by  
5 Jewish plaintiffs against various banks seeking restitution of money and property that  
6 "[t]here is no reason that plaintiffs should be denied a forum for addressing their claims  
7 as a result of deceitful practices by the defendants which have kept them from knowing  
8 or proving the extent of these claims").  
9  
10  
11

12 Our decision in *Van Tu* implies that on a motion to dismiss based on the statute of  
13 limitations, the district court must determine with reference to the facts before it,  
14 construed in the light most favorable to the plaintiffs, whether the exceptional  
15 circumstances justifying the tolling of the statute of limitations persisted long enough to  
16 render the complaint timely filed. Of course, if there is a dispute of facts on the point,  
17 such fact determinations should be made by a jury, not by the court or the panel.  
18  
19 (*Redwine v. Baptist Med. Ctr of Okla.*), Inc., 679 P.2d 1293, 1295 (Okla. 1983) ("the  
20 beginning of the running of the statute of limitations is usually to be determined from  
21 the facts and circumstances of the particular case; and, where these are such that  
22 reasonable men might reach conflicting opinions thereon, the issue is a question for  
23 determination by the trier of the facts").  
24  
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1  
2 I respectfully present this case before the United States District Court of Northern  
3 California's San Jose Division in order to settle a federal question since Santa Clara  
4 County's Superior relieve themselves of doing so by claiming to not have jurisdiction to  
5 settle the constitutionality elements herein.  
6

### 7 8 9 **Res Judicata**

10 As a preemptive strike at those who may raise Res Judicata as a defense, I submit U.S.  
11 Supreme Court Justice Potter Stewart, who stated it better than anyone: "The federal  
12 courts have traditionally adhered to the related doctrines of res judicata [claim  
13 preclusion] and collateral estoppel [issue preclusion]. Under res judicata, a final  
14 judgment on the merits of an action precludes the parties or their privies from  
15 relitigating issues that were or could have been raised in that action. Under collateral  
16 estoppel, once a court has decided an issue of fact or law necessary to its judgment, that  
17 decision may preclude relitigation of the issue in a suit on a different cause of action  
18 involving a party to the first case. As this Court and other courts have often recognized,  
19 res judicata and collateral estoppel relieve parties of the costs and vexation of multiple  
20 lawsuits, conserve judicial resources, and, by preventing inconsistent decisions, encourage  
21 reliance on adjudication. Allen v. McCurry, 449 U.S. at 94. The collateral estoppel bar is  
22 inapplicable when the claimant did not have a "full and fair opportunity to litigate" the  
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1 issue decided by the state court. Id. at 101. Thus, a claimant can file a federal suit to  
2 challenge the adequacy of state procedures.  
3

4  
5 Additionally, end even more perplexing, is that when my case was supposedly  
6 dismissed by the presiding judge on March 21st, 2008 at Santa Clara County, I never  
7 received an official order that came directly from the court. All of my notifications  
8 regarding my case being dismissed came from the Defendants' attorneys on two or  
9 three separate occasions. In fact, the first notification given to me by a courthouse clerk  
10 while I was in the process of filing an amended complaint on the 25th of March. This is  
11 almost a week after my case was supposedly dismissed and not even a single hard copy  
12 of the dismissal could be found any where in the entire court house. This quite strange,  
13 to say the least. The clerk excused himself on two separate occasions in a futile attempt  
14 to locate a hard copy of the order supposedly written by the presiding judge, dismissing  
15 my case. Furthermore, and puzzling as well, was that the orders that was sent to me via  
16 mail service was absent the judge's signature as it was with previous documents  
17 coming from the courthouse. The orders mailed to me from the opposition that  
18 indicated my case was dismissed, were noticeably stamped with the judge's name.  
19

20 Parenthetically, I respectfully ask that the Federal Court system at San Jose assess and  
21 draw its own conclusion regarding the validity and fairness of these procedures  
22 committed at the State level. No man, who merely seeks justice, should have to endure  
23  
24  
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1 the pain and suffering, trials and tribulations nor the suffocating impacts that my family  
2 and I have had intentionally inflicted upon us over the past 6-7 years. To allow these  
3 things to happen to any man and his family with impunity is surely an indictment of,  
4 and in my opinion, a blight on the record of the judicial system as well.  
5

### 8 **Statement Regarding** 9 **Complaint Clarification**

10  
11 I have no doubt that they'll be those who cry foul due to clarification of my complaint.  
12 In no manner, shape or form should merely clarifying a complaint be misconstrued as  
13 adding new claims. Clarification should not be misinterpreted as such due to what has  
14 happened to my family and I have long ago solidified in concrete. It cannot be altered  
15 by the opposition by merely stating that the correct legal term wasn't utilized, therefore,  
16 yours truly must somehow be penalized for this. Just because the correct term wasn't  
17 utilized, it does not stir, diminish, refute, detract, disassemble or deterritorialize the  
18 merits of my claims herein.  
19  
20  
21

22  
23 If a rape victim was to report that to the local authorities that her home was burglarized  
24 while she and her toddlers hid in a back room closet of their home. Later, while being  
25 questioned by the authorities, she gave the Investigators a full account of what  
26 happened, or so they thought. An hour after the local police departed her home, she  
27  
28

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1 telephoned the lead Investigator after being encouraged to do so by family members  
2 and told her (the Investigator) that she was also raped. Accordingly, the Investigator  
3 returned to the woman's home with appropriate personnel and took the necessary steps  
4 to ascertain crucial forensic evidence that was still present on/in the victim.  
5

6 Subsequently, forensic evidence was recovered and a search of a national DNA  
7 database found a highly possible match of who the suspect may be. Again, just because  
8 the victim clarified her claims, does not in any manner de-legitimize or detract from her  
9 story. Indeed, it's highly unlikely that the Investigator will tell her (the victim) that she's  
10 does not believe her story due to her failing to inform the authorities of what really  
11 happened at the initial outset of the investigation. The same thing applies here; mere  
12 clarification of one's story should not be misconstrued as something less than the truth  
13 or carries less weight in terms of the truth. Additionally, just because rape is more  
14 stigmatized in some cultures than others; and the victim failed to mention or utilized  
15 the correct vernacular at the initial investigative inquiry, it should not be negatively  
16 looked upon by Investigators as a claim by the victim that lacks merit. Here, as it is in  
17 my case as well, the facts are available, irrefutable and irreducible to being forged  
18 around the contours of a mere choice of words if one chooses to clarify himself.  
19  
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26 In fact, I utilized the word "LIES" liberally throughout my complaint. There is no  
27 difference between what I term as a LIE than it is for the Declarants to act without  
28

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1 probable cause. At bottom, for the seasoned Defendants to foolishly act upon  
2 questionable or unmeritorious claims by Blakely-Sokoloff in the first instance, is one  
3 and the same as a LIE. The last time that I checked, probable cause basically means in  
4 essence that there was enough preliminary or physical trace evidence discovered at the  
5 crime scene for the Investigators to believe that a crime had in fact occurred and  
6 committed by a particular person or group. Here, evidence in any form is totally absent.  
7  
8 Therefore, it's all the more perplexing for me as to why Defendant attorneys Garrity  
9 and Innes acted upon these empty claims enunciated by Blakely-Sokoloff. Here, what  
10 appears to be truncated and separate acts, is in fact, a well choreographed act between  
11 Investigator Charles Wall, Defendant attorney Garrity and Innes, and Blakely-Sokoloff  
12 is essentially a conspiracy that has robbed me of peace, rest and quiet that were the  
13 elements of a once tranquil life that I had, in addition to besmirching my good character  
14 and my good name..  
15  
16  
17  
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19  
20

**Motion – To Vacate Dismissal Order**  
**Request for relief under C.C.P. § 473b and CRC § 3.1206**

21 Your Honor, here comes the Pro Per Plaintiff, Harris L. Winns. I respectfully motion  
22 that this Honorable Court vacate the order of dismissal with Prejudice entered in this  
23 action on March 21<sup>st</sup>, 2008. This dismissal is contrary to Code of Civil Procedure sections  
24 437 and California Rules of Court 3.1206.  
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**POINTS AND AUTHORITIES IN SUPPORT OF MOTION****Argument**

Section 473(b) states in part that: The court may, upon any terms as may be just, relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. Application for this relief shall be accompanied by a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted, and shall be made within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken. However, in the case of a judgment, dismissal, order, or other proceeding determining the ownership or right to possession of real or personal property, without extending the six-month period, when a notice in writing is personally served within the State of California both upon the party against whom the judgment, dismissal, order, or other proceeding has been taken, and upon his or her attorney of record, if any, notifying that party and his or her attorney of record, if any, that the order, judgment, dismissal, or other proceeding was taken against him or her and that any rights the party has to apply for relief under the provisions of Section 473 of the Code of Civil Procedure shall expire 90

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1 days after service of the notice, then the application shall be made within 90 days after  
2 service of the notice upon the defaulting party or his or her attorney of record, if any,  
3  
4 whichever service shall be later.

5  
6  
7 Furthermore, (c) (1) Whenever the court grants relief from a default, default judgment,  
8  
9 or dismissal based on any of the provisions of this section, the court may do any of the

10 following:

11  
12 (A) Impose a penalty of no greater than one thousand dollars (\$1,000) upon an  
13 offending attorney or party.

14 (B) Direct that an offending attorney pay an amount no greater than one thousand  
15 dollars (\$1,000) to the State Bar Client Security Fund.

16  
17 (C) Grant other relief as is appropriate.  
18  
19

20 (2) However, where the court grants relief from a default or default judgment pursuant  
21 to this section based upon the affidavit of the defaulting party's attorney attesting to the  
22 attorney's mistake, inadvertence, surprise, or neglect, the relief shall not be made  
23 conditional upon the attorney's payment of compensatory legal fees or costs or  
24 monetary penalties imposed by the court or upon compliance with other sanctions  
25  
26 ordered by the court.  
27  
28

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1 (d) The court may, upon motion of the injured party, or its own motion, correct clerical  
2 mistakes in its judgment or orders as entered, so as to conform to the judgment or order  
3 directed, and may, on motion of either party after notice to the other party, set aside any  
4 void judgment or order.  
5

6  
7 As conventionally understood and as noted by the court in Amaro v. California  
8 Unemployment Insurance Appeals Board (1977), 65 Cal App 3d 715, 135 Cal Rptr 493, the  
9 concepts of mistake, inadvertence, surprise and excusable neglect are taken generally  
10 from section 473 of the Code of Civil Procedure (hereafter C.C.P 473). Section 473  
11 provides in part that a court may relieve a party from a judgment, order, or other  
12 proceeding taken against him through his mistake, inadvertence, surprise or excusable  
13 neglect.  
14  
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17  
18  
19 (Shearman v. Jorgensen, 106 Cal. 483, 485 [39 P. 863].) The 'surprise' referred to in section  
20 473 is defined to be some 'condition or situation in which a party to a cause is  
21 unexpectedly placed to his injury, without any default or negligence of his own, which  
22 ordinary prudence could not have guarded against.'  
23  
24

25 (Miller v. Lee, 52 Cal App 2d 10, 16 [125 P.2d 627].) The 'excusable neglect' referred to in  
26 the section is that neglect which might have been the act of a reasonably prudent person  
27 under the same circumstances.  
28

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1 (*Hewins v. Walbeck*, 60 Cal.App.2d 603, 611 [141 P.2d 241].) A party will not be relieved  
2 from his default unless he shows he acted in good faith and that his mistake,  
3  
4 inadvertence, surprise or excusable neglect was the actual cause.

5  
6 Additionally, the provisions of CRC § 3.1206 explicitly states that: Parties appearing at  
7 the ex parte hearing must serve the ex parte application or any written opposition on all  
8 other parties at the first reasonable opportunity. Absent exceptional circumstances, no  
9 hearing may be conducted unless such service has been made.  
10  
11

12  
13 I was never served with any documents in relation to the ex parte application for  
14 dismissal of my complaint by the opposing attorneys. This act is in stark contrast with  
15 what's outlined in the CRC indicated immediately above.  
16  
17

18  
19 Although I'm not certain, it appears that some individuals are partly influenced by a  
20 faulty assumption that mechanical rules are always in an indelible and therefore  
21 superior position in relation to one who merely seeks justice. In fact, it's just the  
22 opposite, justice not only eschews mechanical rules, it soundly trumps these rules at  
23 each and every turn.  
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1 Additionally, I respectfully request that the presiding judge vigorously impose sanction  
2 where it's applicable against the offending attorney(s) involved in this matter.  
3  
4

### 5 CONTINUUM

6  
7 Your Honor, I vehemently oppose Blakely-Sokoloff's, in particular Laura E. Innes and  
8 Ronald F. Garrity's attempt to strike my complaint under a Special Motion. These  
9 Declarants, they may have had and still do so to this day, that is, to defend whom ever  
10 they may deem worthy of their defense in court, however, they do not have a right to  
11 maliciously prosecute or abuse the judicial process against me or anyone else while in  
12 the process of choosing whom to defend in addition to intentionally failing to  
13 corroborate Blakely-Sokoloff's claims in the first instance. To my knowledge, this was  
14 an uncoerced act by Defendant attorneys Garrity and Innes. Additionally, if this act was  
15 coerced upon them by Blakely-Sokoloff, they should've reported this coercion to the  
16 proper authorities. They've had over (6) years to report this. They did not have to  
17 accept Blakely-Sokoloff's claims. Therefore, they must suffer the consequences and let  
18 the chips fall where they may. At bottom, the Defendants behave as if I should bare the  
19 burden of their failures and inadequate assessment of Blakely-Sokoloff's claims. In my  
20 opinion, these are the acts of what I would expect from incompetent attorneys that were  
21 ultimately deemed unfit to practice law in any State within the union. I sincerely do not  
22 believe that Defendants Garrity and Innes are incompetent attorneys. They are educated  
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1 in the trade of law; apparently they have studied the law; apparently they have taken  
2 additional training courses regarding law; without a doubt, they have practiced law  
3 within the State of California. Therefore, I do not..... and will not accept their defense  
4 as that of two individuals not having the faculties of knowing the law and what the  
5 ending results would be if two attorneys were to fail to assess claims by a potential  
6 client and subsequently have a restraining order wrongfully placed upon another  
7 individual in an attempt to conceal a wrongful termination (*ulterior motive*), financial  
8 ruin and defamation, *inter alia*, and then attempt to extract themselves from a long  
9 awaited, but pursuing suit. This is the blatant face of conspiracy, in addition to what  
10 appear to be hubristic attitudes in motion all at once.

11  
12  
13  
14  
15  
16 However, whether or not Defendant Garrity and Innes are incompetent attorneys is  
17 properly a question for a prescription writing Psychiatrist or a behavioral studying  
18 Psychologist to determine via appropriate protocols.  
19  
20  
21

22 **POINTS AND AUTHORITIES IN SUPPORT**  
23 **OF DENYING SPECIAL MOTION TO STRIKE**  
24  
25

26 Now, Defendants have filed an anti-SLAPP suit CCP§425.16, in an attempt to have my  
27 suit dismissed. However, I do believe that Defendant attorneys Garrity and Innes did  
28

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1 have a right to petition on behalf of Blakely-Sokoloff but, this right alone should not  
2 absolve them of a malicious prosecution claim against them. Apparently, they were  
3 negligent in screening the validity of a potential client's claims prior to accepting them;  
4 they've failed to enumerate and ascertain facts that would've been supportive of  
5 Blakely-Sokoloff's claims as well. The Defendants should've paused for a period of time  
6 and ponder the following questions; preferably, prior to making the decision to  
7 represent them: why didn't the Investigator that Blakely-Sokoloff hired to conduct  
8 surveillance of their property, failed to contact the local authorities when he claimed he  
9 saw yours truly on the former employer's property, after being terminated, on (6)  
10 separate occasions; why don't Blakely-Sokoloff present to us something that will give us  
11 probable cause against yours truly?  
12  
13  
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18 Parenthetically, I'd like to add that this all supposedly took place at 2am, there or about  
19 that time on (6) separate occasions, in the early morning in the midst of darkness but  
20 yet, Defendant Investigator Charles Wall had the audacity to state within his support  
21 for ex-parte application that he saw no one else but me, attempting to break into one of  
22 the buildings on the premises presumably owned by my former employer. I could  
23 assure you, that at that specific time of the morning, or any other time, I more than  
24 likely was enjoying the comfort of my wife. It's unfortunate that he wasn't doing the  
25 same thing. These allegations are quite perplexing, to say the least. In fact, if I was  
26  
27  
28

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1 unfortunately a member of Blakely-Sokoloff's management team, I'd demand that  
2 Defendant Investigator Charles Wall return every penny given to him in relation to  
3 declaring that he'd facilitate security surveillance and subsequently, due to him failing  
4 to provide the services that he promised, that was, to act accordingly if the security of  
5 the premises was ever violated.  
6  
7

8  
9 If the Defendants had in place a screening process whereby potential clients are at least  
10 rigorously screened prior to accepting their claims at face value and apparently without  
11 scrutiny, Defendants Garrity and Innes probably wouldn't be in the situation in which  
12 they currently find themselves. But yet, after failing to take simple precautions  
13 enunciated above, it appears that they've embarked upon a campaign that in my  
14 opinion, equates with that of having an abundance of umbrage targeting me. The  
15 Declarants should target their former client Blakely-Sokoloff with this umbrage. The  
16 Defendants never represented me and I've never supplied them with a false claim nor  
17 have I presented to them a mangled theory. Therefore, it appears to be a fundamental  
18 misunderstanding in addition to misdirected anger regarding what happened here,  
19 when it shouldn't be, due to their complicity in bringing about a malicious TRO that has  
20 essentially ruined my life.  
21  
22  
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1 Defendant attorneys Garrity and Innes or any other firm for that matter, would greatly  
2 reduce their exposure to becoming targets of malicious prosecution claims in the first  
3 instance if they'd institute rigid screening guidelines.  
4

5  
6 In fact, in order to establish a cause of action for malicious prosecution, the plaintiff  
7 must prove the prior action was: (1) brought by the defendant and resulted in a  
8 favorable termination for the plaintiff; (2) initiated or continued without probable cause;  
9 and (3) initiated with malice. (*Bertero [v. National General* (1974) 13 Cal.3d 43,] 50, 118  
10 Cal.Rptr. 184, 529 P.2d 608 [*Bertero* ]." (*Crowley v. Kattleman* (1994) 8 Cal.4th 666, 676, 34  
11 Cal.Rptr.2d 386, 881 P.2d 1083 (*Crowley* ).  
12  
13  
14

15  
16 The tort of malicious prosecution is disfavored both because of its 'potential to impose  
17 an undue "chilling effect" on the ordinary citizen's willingness to report criminal  
18 conduct or to bring a civil dispute to court' [(*Sheldon Appel Co. v. Albert Olier* (1989) 47  
19 Cal.3d 863, 872, 254 Cal.Rptr. 336, 765 P.2d 498 (*Sheldon Appel Co.*))]  
20  
21

22  
23 Additionally, the elements of a civil action for abuse of process are: 1) an ulterior motive  
24 in using the process, and 2) a willful act in the use of the process not proper in the  
25 regular conduct of the proceeding. *Cantu v. Resolution Trust Proceeding* (1992) 4  
26 Cal.App.4th 857, (*Spellens v. Spellens*, 49 Cal.2d 210, at page 230.  
27  
28

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1  
2 Moreover, Available grounds for punitive damages are malice and oppression under  
3  
4 California Civil Code section 3294  
5

6  
7 In direct relation to their actions, I'm in financial ruin and I've suffered intentional  
8 infliction of emotional distress, *inter alia*. I could prove each and every one of these trier  
9 of causes with the greatest of ease and in addition to the Defendants negligent reliance  
10 upon fraudulent information from Blakely-Sokoloff in order to obtain the TRO in the  
11 first proceedings (*then Plaintiffs Blakely-Sokoloff, that was awarded the TRO*) against me  
12 and what seasoned and competent attorneys, as is the situation with Garrity and Innes,  
13 should've at least further questioned. Therefore, the special motion to strike my  
14 complaint must ultimately fail because it rests squarely upon the shoulders of  
15 fraudulent and a gross misrepresentation of the truth regarding the information  
16 provided to them by Blakely-Sokoloff and subsequently provided to the court in the  
17 first instance. I do not believe Defendants were under any obligation to accept these  
18 claims as stated by Blakely-Sokoloff.  
19  
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24

25 If the court finds such a showing has been made, it then determines whether the  
26 plaintiff has demonstrated a probability of prevailing on the claim." (*Equilon Enterprises*  
27 *v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 67.) An anti-SLAPP motion must be denied  
28

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1 “ ‘if the plaintiff presents evidence establishing a prima facie case which, if believed by  
2 the trier of fact, will result in a judgment for the plaintiff. [Citation.]’ ” (*Fleishman v.*  
3 *Superior Court* (2002) 102 Cal.App.4th 350, 356.) Only a minimal showing of merit is  
4 required. (*Yu v. Signet Bank/Virginia* (2002) 103 Cal.App.4th 298.)  
5

6  
7  
8 In fact, It’s my understanding that the Sixth District Court of Appeal held in *Siam v.*  
9 *Kizilbash* (2005) 130 Cal.App.4th 1563 (*Siam*) that a cause of action for malicious  
10 prosecution cannot be predicated upon an unsuccessful civil harassment petition under  
11 section 527.6.<sup>2</sup> The defendant in *Siam* obtained a TRO upon an alleged  
12 misrepresentation to the court, but the court ultimately denied his request for a  
13 permanent injunction and dissolved the TRO.  
14  
15

16  
17  
18 Furthermore, California’s 4<sup>th</sup> App. Dist. vividly observed in (*Siam v. Kizilbash*, 2005) that,  
19 “Permitting a malicious prosecution claim to follow an unsuccessful section 527.6  
20 petition,” the court observed, “would frustrate this streamlined procedure”. However,  
21 in my situation, a successful TRO was obtained and firmly held in place for (5) years  
22 based on unscreened and apparently uninvestigated claims by Blakely-Sokoloff and  
23 then presented to Defendants attorneys, Garrity and Innes and then subsequently, they  
24 provided this false information to the court on behalf of Blakely-Sokoloff without taking  
25 in to consideration the first requirement of *probable cause*.  
26  
27  
28

Plaintiff: Harris Winns (Pro Per)

Harris Winns v. BSTZ

1  
2 In sum, this entire incident was fraudulent concealment, deceitful and a conspiratorial  
3 joint venture by Declarants Blakely-Sokoloff, attorneys Innes and Garrity and so-called  
4 Investigator Charles Wall placed in motion by them to destroy me mainly due to my  
5 immutable characteristics and in addition to what appear to be their beliefs that I'd  
6 never mount a defense of my own to confront each and every one of them.  
7  
8

9  
10 Although I'm not certain but, it appears that some individuals believe that by merely  
11 insulting their own intelligence level via a shoddy screening process, that this is by the  
12 means through which they should be extracted from a malicious prosecution and abuse  
13 of process suit filed against them. If this type of unchecked behavior is allowed, the  
14 court will have introduced not only a ground swell of uncertainty into the legal system  
15 but, this will further open the flood gates for even more anti-SLAPP suits. California's  
16 CCP §425.16 is of limited authority, it is not absolute.  
17  
18  
19  
20  
21

## 22 Abuse Of Process

23  
24 One who uses legal process, whether criminal or civil, against another to accomplish a  
25 purpose for which it is not designed is liable to the other for the pecuniary loss caused  
26 thereby.  
27  
28

Plaintiff: Harris Winns (Pro Per)

Harris Winns v. BSTZ

1 The gravamen of the misconduct for which the liability stated in this Section is imposed  
2 is not the wrongful procurement of legal process or the wrongful initiation of criminal  
3 or civil proceedings; it is the misuse of process, no matter how properly obtained, for  
4 any purpose other than that which it was designed to accomplish. Therefore, it is  
5 immaterial that the process was properly issued, that it was obtained in the course of  
6 proceedings which were brought with probable cause and for a proper purpose or even  
7 that the proceedings terminated in favor of the person instituting or initiating them. The  
8 subsequent misuse of the process, though properly obtained, constitutes the misconduct  
9 for which the liability is imposed under the rule stated in this Section.  
10  
11  
12

13  
14 Dean Prosser, University of California School of Law, has the following to say with the  
15 citation of many authorities: "The action for malicious prosecution, whether it be  
16 permitted for criminal or civil proceedings, has failed to provide a remedy for a group  
17 of cases in which legal procedure has been set in motion in proper form, with probable  
18 cause, and even with ultimate success, but nevertheless has been perverted to  
19 accomplish an ulterior purpose for which it was not designed. In such cases a tort action  
20 has been developed for what is called abuse of process. ...  
21  
22  
23

24  
25 "Abuse of process differs from malicious prosecution in that the gist of the tort is not  
26 commencing an action or causing process to issue without justification, but misusing or  
27 misapplying process justified in itself for an end other than that which it was designed  
28

Plaintiff: Harris Winns (Pro Per)

Harris Winns v. BSTZ

1 to accomplish. The purpose for which the process is used, once it is issued, is the only  
2 thing of importance. Consequently in an action for abuse of process it is unnecessary for  
3 the plaintiff to prove that the proceeding has terminated in his favor, or that it was  
4 obtained without probable cause or in the course of a proceeding begun without  
5 probable cause. ...

8 "The essential elements of abuse of process, as the tort has developed, have been stated  
9 to be: first, an ulterior purpose, and second, a willful act in the use of the process not  
10 proper in the regular conduct of the proceeding. Some definite act or threat not  
11 authorized by the process, or aimed at an objective not legitimate in the use of the  
12 process, is required; and there is no liability where the defendant has done nothing  
13 more than carry out the process to its authorized conclusion, even though with bad  
14 intentions. The improper purpose usually takes the form of coercion to obtain a  
15 collateral advantage, not properly involved in the proceeding itself, such as the  
16 surrender of property or the payment of money, by the use of the process as a threat or  
17 a club. There is, in other words, a form of extortion, and it is what is done [49 Cal.2d  
18 233] in the course of negotiation, rather than the issuance or any formal use of the  
19 process itself, which constitutes the tort." (Emphasis added; Prosser on Torts, (2d ed.) p.  
20 667.) This case falls squarely within these rules. [16] The compensatory damages  
21 recoverable for abuse of process include mental suffering. (Adelman v. Rosenbaum, 133  
22 Pa.Super. 386 [3 A.2d 15]; Saliem v. Glovsky, 132 Me. 402 [172 A. 4]; 1 Am.Jur., Abuse of  
23  
24  
25  
26  
27  
28

Plaintiff: Harris Winns (Pro Per)

Harris Winns v. BSTZ

1 Process, § 38.) Lamb v. National Surety Co., 108 Cal.App. 297 [291 P. 647], is clearly  
2 distinguishable in that it did not involve the facts here present.  
3

4 **California Civil Code Section 3294**  
5

6 (a) In an action for the breach of an obligation not arising from contract, where it is  
7 proven by clear and convincing evidence that the defendant has been guilty of  
8 oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may  
9 recover damages for the sake of example and by way of punishing the defendant.  
10

11 The gist of my suit, and through no fault of my own, why should my family and I have  
12 to bare the burden of my former employer's claims regarding yours truly; a subsequent  
13 shoddy screening process by Defendant's Garrity and Innes which resulted in (5) years  
14 of being unemployable; and who may possibly attempt to maliciously prosecute me  
15 again if the Special Motion To strike is granted?  
16  
17  
18

19  
20 Again, I vehemently oppose granting the opposition's Special Motion to Strike my  
21 complaint.  
22  
23

24 I declare under penalty of perjury under the laws of the State of California the foregoing  
25 is true and correct. Executed on this 24th day of April, 2008 in San Jose, California.  
26  
27  
28

Plaintiff: Harris Winns (Pro Per)

Harris Winns v. BSTZ

**USC Section § 1985 (3). Conspiracy to interfere with civil rights  
Depriving persons of rights or privileges**

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

**The Armor of GOD  
Ephesians (10-18)**

Finally, be strong in the Lord and in his mighty power. Put on the full armor of GOD so that you can take your stand against the devil's schemes. Therefore, put on the full



Plaintiff: Harris Winns (Pro Per)

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armor of GOD, so that when the day of evil comes, you may be able to stand your ground. Stand firm then, with the belt of truth buckled around your waist, with the breastplate of righteousness in place and with your feet fitted with the readiness that comes from the gospel of peace. In addition to all this, take up the shield of faith with which you can extinguish all the flaming arrows of the evil one.

For you were once darkness, but now you are light in the Lord. Have nothing to do with the fruitless deeds of darkness, but rather, expose them. (Ephesians 8-11)

- The master warrior knows the psychology and mechanics of conflict so intimately that every move of an opponent is seen through at once. (*Sun Tzu, The Art of War*)
- To sin by silence when they should protest, makes cowards of men. –*Abraham Lincoln*
- The polemicist, on the other hand, consists of not recognizing this person as a subject having the right to speak but abolishing him as an interlocutor, from any possible dialogue and complete domination; and his final objective will be not to come as close as possible to a difficult truth but, to bring about the triumph of the just cause he has been manifestly upholding from the beginning. The polemicist relies on a legitimacy that his adversary is by definition denied – *Michael Foucault, French philosopher, social critic.*
- The essence of a defamation claim is the right to protect one's good name. This tort reflects no more than our basic concept of the essential dignity and worth of every human being, a concept at the root of any decent system of ordered liberty – *Former US Supreme Court Justice Potter Stewart, (Rosenblatt v. Baer).*
- Where a person's good name, reputation, honor or integrity is at stake, notice and an opportunity to be heard are essential. - *Former US Supreme Court Justice Potter Stewart, (Wisconsin v. Constantineau)*

Plaintiff: Harris Winns (Pro Per)

Harris Winns v. BSTZ

1  
2 **WHEREFORE**, plaintiff prays that the Court grant the following relief:  
3

- 4  
5  
6 1. Demand that defendant(s) restore Plaintiff to the upright position that he would  
7 have been in but for their intentional discriminatory conduct.  
8  
9 2. Enjoin the Defendants, their officers, employees, and agents, and all other persons  
10 in active concert or participation with any of them, from participating in racial  
11 discrimination and harassment relative to employment practices.  
12  
13 3. Require the Defendant to provide sufficient equitable relief to make whole the  
14 charging party for the losses he has suffered as a result of the discrimination  
15 against him as alleged in this complaint.  
16  
17 4. Award back pay, compensatory and punitive damages and any other relief that  
18 the court may deem appropriate to the Plaintiff as would fully compensate him  
19 and his family for their injuries caused by the discrimination against him as  
20 alleged in this complaint, pursuant to and within the statutory limitations of  
21 Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.  
22  
23 5. Require the Defendant to take appropriate measures to ensure that individuals are  
24 not subjected to discrimination in the terms, conditions and privileges of  
25 employment, non-renewal of contracts, or discharge on the basis of race or  
26 national origin or retaliated against for complaining about what they reasonably  
27 believe to be discrimination prohibited by Title VII.  
28  
6. Additionally, Plaintiff prays for further relief as justice may require, up to and  
including attorney and court costs.

Plaintiff: Harris Winns (Pro Per)

Harris Winns v. BSTZ

1 7. Enjoin the defendant from engaging in and participating in acts that involves  
2 placing my name in electronic databases that stigmatizes my character in  
3 addition to essentially barring me from fully participating in the job market by  
4 incorrectly and intentionally attaching a criminal element to my name for the  
5 past five years.

6 8. I pray that the court would facilitate me an opportunity to confront and hold  
7 those accountable for their actions and inactions relative to suffocating the hopes  
8 and dreams of my family and I through electronic means, third party and fourth  
9 party in addition to any other means through which their unlawful acts were  
10 perpetrated.

### 11 Jury Demand

12  
13  
14 In accordance with explicitly expressed language within Article I, section 16 of the  
15 California constitution and in addition to all issues so triable and pursuant Rule 38 of  
16 the Federal Rules of Civil Procedure, I demand that a jury be convened to decide this  
17 case.  
18  
19  
20

DATED: May 20, 2008

Respectfully submittedHarris L. Winns, *In Propia Persona*

Harris Winns v. Blakely, Sokoloff, Taylor & Zafman

# EXHIBIT

# A



**Roger W. Washington, M.D., Inc.**

885 Scott Blvd., Suite 4  
Santa Clara, CA 95050  
408-246-9926 office  
408-246-7877 fax  
www.rogerwashington.com

December 13, 2007.

COPY

Your Honor,

I aver the following as the result of the request of Harris Winns, for whom I provided professional medical services between April of 2001 and June of 2005. My records indicate our first encounter was initiated by Mr. Winns' request that I attend him for a chronic musculoskeletal problem. The incidental review of his medical systems indicated at that time the likelihood of a concomitant mood-related disorder. Later in December of 2001, it became apparent that Mr. Winns was suffering the symptoms precipitated by a mood-related disorder. I diagnosed him as having clinical depression, which necessitated the initiation of an antidepressant. He responded favorably to the medication. By July of 2002 his symptoms had remitted. Subsequently, he continued the maintenance phase of treatment consisting of an adjusted dosage of the same medication. My records indicate Mr. Winns was compliant and continued the proscribed one-year treatment throughout 2002 into the first half of 2003.

Prior to 2001 Mr. Winns had no medical history of clinical depression. It is not a part of my usual practice to attempt to determine or identify a particular cause of depressive illness. My records do not lend themselves therefore to identifying what some often refer to as a 'root cause'. Although I cannot aver that a stressful work environment caused Mr. Winns' clinical depression, it is plausible in my opinion that such circumstances can precipitate clinical depression.

Sincerely,

Roger Washington, MD, FAAFP

COPY

# EXHIBIT

# B

MAR. 15. 2005 9:08AM

SGI 6506154861

No. 570 P. 2

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): Ronald F. Garrity, Bar # 110488 650 615-4860 Laura E. Innes, Bar # 124259 SIMPSON, GARRITY & INNES 651 GATEWAY BOULEVARD, SUITE 1050 SOUTH SAN FRANCISCO, CA 94080		TELEPHONE NO.: 650 615-4860		FOR COURT USE ONLY <b>FILED</b> 2005 MAR 15 AM 9:53 KIRI TORRE CHIEF EXEC. OFFICER/CLERK SUPERIOR COURT OF CA COUNTY OF SANTA CLARA BY <u>Sharon Cullen</u> DEPUTY	
ATTORNEY FOR (Name): Plaintiff, Blakely, Sokloff, Taylor & Zafman, LLP Insert name of court and name of judicial district and branch court, if any: Santa Clara Superior Court					
PLAINTIFF/PETITIONER: BLAKELY SOKOLOFF TAYLOR & ZAFMAN, LLP DEFENDANT/RESPONDENT: HARRIS WINNS					
<b>REQUEST FOR DISMISSAL</b> <input type="checkbox"/> Personal Injury, Property Damage, or Wrongful Death <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other <input type="checkbox"/> Family Law <input type="checkbox"/> Eminent Domain <input checked="" type="checkbox"/> Other (specify): Stipulated Order for Injunction				CASE NUMBER: CV806829	

— A conformed copy will not be returned by the clerk unless a method of return is provided with the document. —

**1. TO THE CLERK:** Please dismiss this action as follows:

- a. (1) ☐ With prejudice (2) ☒ Without prejudice
- b. (1) ☐ Complaint (2) ☐ Petition  
 (3) ☐ Cross-complaint filed by (name):  
 (4) ☐ Cross-complaint filed by (name):  
 (5) ☐ Entire action of all parties and all causes of action  
 (6) ☒ Other (specify):\* Stipulated Order for Injunction

**BY FAX**

on (date):  
 on (date):

Date: March 14, 2005

Ronald F. Garrity, Bar # 110488

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

\* If dismissal requested is of specified parties only, of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

SIMPSON, GARRITY & INNES, PC.

(SIGNATURE)  
 Attorney or party without attorney for: Plaintiff,  
 Blakely, Sokloff, Taylor & Zafman, LLP  
☐ Plaintiff/Petitioner ☐ Defendant/Respondent  
☐ Cross-complainant

**2. TO THE CLERK:** Consent to the above dismissal is hereby given.\*\*

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

\*\* If a cross-complaint - or Response (Family Law) seeking affirmative relief - is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581(f) or (g).

(SIGNATURE)  
 Attorney or party without attorney for:  
☐ Plaintiff/Petitioner ☐ Defendant/Respondent  
☐ Cross-complainant

(To be completed by clerk)

3. ☒ Dismissal entered as requested on (date): **MAR 15 2005**  
 as to only (name):  
 4. ☐ Dismissal entered on (date):  
 5. ☐ Dismissal not entered as requested for the following reasons (specify):

6. ☒ a. Attorney or party without attorney notified on (date): **MAR 15 2005**  
 b. Attorney or party without attorney not notified. Filing party failed to provide  
☐ a copy to conform ☐ means to return conformed copy

Date:

**MAR 15 2005**

Clerk, by

Sharon Cullen

, Deputy

# EXHIBIT

# C



# **BLAKELY SOKOLOFF TAYLOR (V ZAFMAN)**

A LIMITED LIABILITY PARTNERSHIP INCLUDING LAW CORPORATIONS

TELEPHONE (408) 720-8300

FACSIMILE (408) 720-8383

BSTZ\_MAIL@BSTZ.COM

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INTELLECTUAL PROPERTY LAW

279 OAKMEAD PARKWAY

SUNNYVALE, CA 94085-4040

OTHER OFFICES

AUSTIN, TX

LOS ANGELES, CA

ORANGE COUNTY/ COSTA MESA, CA

SAN DIEGO/ LA JOLLA, CA

SILICON VALLEY/SAN JOSE, CA

PORTLAND / LAKE OSWEGO, OR

SEATTLE, WA

DENVER, CO

Date: Wednesday, February 13, 2002

To: Anthony Intil  
Harris Winns

From: Candace C. Mielke

RE: Incident of February 13, 2002

On February 13, 2002, at approximately 10:45am, I entered the office shared by Anthony Intil and Harris Winns. After inquiring how things were going with the two of them an argument arose between Anthony and Harris. Anthony stated a negative and inappropriate comment to me regarding Harris. This comment brought about an argument between the two employees. During the argument the two employees raised their voices, used profanity treating one another in an extremely inappropriate and unprofessional manner. Both did not listen and acknowledge their supervisor's request to stop the argument and to sit down. After several requests from their supervisor to stop yelling and to sit down, both did comply.

I spoke to both of them about the department, the teamwork and the break down in the team that this argument has now caused. I told them that if they continued to argue in this manner that I would terminate both of them for improper work conduct. I also stated that their behavior is unacceptable and that I was extremely disappointed in their disrespect towards each other and ultimately to myself. After I spoke with the two in the room, I sent both employees home for the day. The emotions of the argument were so great that keeping them in the workplace any further would in my view exacerbate the situation greatly.

This argument is unfortunate and intolerable. I am greatly disappointed in the inappropriate behavior displayed by both employees to each other and directly to myself. The BSTZ Personnel Employee Manual, referencing section 52.0 Rules of Standards of Conduct, speaks to this type of behavior displayed by these two employees today.

This type of conduct can lead to disciplinary action up to and including immediate discharge.

This letter serves as a warning and a formal counseling to both employees, Anthony Intil and Harris Winns. There will be zero tolerance of this type of behavior in the future.

This letter is to be signed by both employees and given to supervisor, Candy Mielke

Respectfully Yours -




Candace C. Mielke Director of Information Technology Read and Acknowledged by Harris Winns

Sign:

Date:

# EXHIBIT

# D

**From:** "Laura Innes" <linnes@sgilaw.com>  Add to Address Book  Add Mobile Alert  
**To:** "Harris Winns" <hwinns@yahoo.com>  
**Subject:**  hello  
**Date:** Thu, 11 Aug 2005 09:15:31 -0700

Hi Mr. Winns,

I am still working on this. Summer is a terrible time to try to find enough people to get critical mass for decision-making. Hang in there, I have not forgotten you.

Laura

Laura E. Innes  
Simpson, Garrity & Innes PC  
601 Gateway Blvd., Suite 950  
South San Francisco, CA 94080  
(650) 615-4860  
(650) 615-4861(fax)  
linnes@sgilaw.com

\*\*\*\*\*



This message contains information which may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose the message or any information contained in the message to anyone. If you have received this message in error, please advise the sender by reply e-mail and delete the message. If you are the intended recipient, please be advised that the content of this message is subject to access, review and disclosure by the sender's e-mail administrators.

\*\*\*\*\*

Harris Winns v. Blakely, Sokoloff, Taylor & Zafman

# EXHIBIT

# E

**From:** "Laura Innes" <linnes@sgilaw.com>  Add to Address Book  Add Mobile Alert

**To:** "Harris Winns" <hwinns@yahoo.com>

**CC:** "Ron Garrity" <rgarrity@sgilaw.com>

**Subject:** RE: Hi Laura

**Date:** Mon, 29 Aug 2005 14:44:57 -0700

Hi Harris,

I am deeply disturbed by the tone of your email and do not understand what wrongs you believe that BSTZ has committed against you. BSTZ won a restraining order against you. You were represented by legal counsel. It was your acts which lead to the firm winning that restraining order. As a courtesy to you, the restraining order was dismissed on motion by BSTZ on March 15, 2005; you received a copy of that dismissal. The order was set to expire in April 2005. There is no potential liability against BSTZ based on the consequences of that litigation.

Without knowing exactly to which records you were referring when you cited damage you are being caused by the existence of the restraining order, or from where the information was coming, we ran a court records check on Lexis, spoke with personnel at Pro E Access, inquired with the Santa Clara Sheriff's department and the DOJ regarding the California Law Enforcement Telecommunication System (CLETS) records, spoke with the Santa Clara Clerk of the Court office regarding court records and researched the code/rules regarding a procedure for removing information from the Court's public database. We learned the following:

1. *Court records background check.* The Lexis court records search on Harris Winns revealed that Harris Winns was the defendant in a civil action against BSTZ in Santa Clara County. The "Case Type" is described as "Other Petition." The search does not reveal that the matter was a restraining order. This should not alert potential employers to anything other than the fact that you have been involved in litigation, as have many Americans.

2. *Pro E Access (800-616-2900):* According to personnel at Pro E Access (a background search company) a restraining order typically does not show-up on standard background checks. Instead, restraining orders appear on the CLETS which may only be accessed by law enforcement, judges or if seeking a government job.

3. *Santa Clara County Sheriff's Office – Civil Restraining Orders.* We spoke with the Santa Clara County Sheriff's office regarding restraining orders listed on the CLETS. They explained that restraining orders typically stay on the system for 5 years; however, after a restraining order expires it appears as "inactive." Although she could not reveal whether the restraining order against you appeared inactive or not, she did say that they were up to date on tracking restraining orders, and that if it expired in April 2005, the CLETS should show it as inactive. Again, private employers do not have access to this information.

4. *California Department of Justice – CLETS division – restraining orders:* This department provided additional and more detailed information regarding CLETS. She said that when a restraining order expires or otherwise goes away it is placed for 30 days in a "suspension mode." During the 30 day suspension mode a restraining order appears as inactive. After 30 days it is then (because of Family Code §6306) moved to a history file for 5 years where only the courts and certain law enforcement officials have access. The history file cannot be accessed for employment purposes, except for very limited circumstances/positions. The restraining order against you should have already been moved to the CLETS history file.

Harris, as you know, if BSTZ is contacted by prospective employers about an employment reference, you are given a neutral reference – dates of employment and position held. BSTZ' reference is consistent with common business practice and should not be raising any red flags. Based on our research, as outlined above, there should not be an insurmountable obstacle to employment.. The restraining order shows up as no more than civil litigation in the court databases.

We hope this clarifies these issues. Best of luck in your new area and search efforts.

Regards,

Laura

Laura E. Innes  
Simpson, Garrity & Innes PC  
601 Gateway Blvd., Suite 950  
South San Francisco, CA 94080  
(650) 615-4860  
(650) 615-4861 (fax)  
linnes@sgilaw.com

\*\*\*\*\*

This message contains information which may be confidential and privileged. Unless you are the

addressee (or authorized to receive for the addressee), you may not use, copy or disclose the message or any information contained in the message to anyone. If you have received this message in error, please advise the sender by reply e-mail and delete the message. If you are the intended recipient, please be advised that the content of this message is subject to access, review and disclosure by the sender's e-mail administrators.

\*\*\*\*\*

---

**From:** Harris Winns [mailto:hwinns@yahoo.com]  
**Sent:** Monday, August 29, 2005 1:00 PM  
**To:** linnes@sgilaw.com  
**Subject:** Hi Laura

Good morning,

My family and I has had to relocate to Seattle/Tacoma area due to our sub-standard living arrangement and the economic pressures of the Bay Area. Therefore, my wife and I both are unemployed and are currently searching for employment that will comfortably sustain our family.

As a reminder, it's been (3 1/2) years since your client, Blakely-Sokoloff, has injured my potential to provide for my family. The nexus between the adverse actions of BSTZ and my current familial dilemma, are direct results of a few individuals at that firm. Their torturous abuse has cut away at the very ground that nurtured my family and I. The only manner in which someone or an organization could commit such an abhorrent act is to chase "reason" from the camp and have "irrationality" reside in its absence.

In deed, there is no difference and no less important it would be if someone driving an automobile were to purposefully or accidentally strike a pedestrian and leave the crime scene in an attempt to evade authorities and thereby falsely believe that he or she doesn't bare any responsibility for such an act.

The Lord is my witness that I've been very patient, if not too patient in dealing with Blakely-Sokoloff. The Lord is my witness in seeing that my family has and continues to suffer because of them. It's ironic that everyone knows why my family is hurting except the people at Blakely-Sokoloff. This is what gives the impression that this entire situation was systematic, deliberate and coldly implemented to cause injury to my family and I, culminating in mental anxiety on my person and impoverishing my family.

More fundamentally, the injuries that I've sustained will eventually be tolled at Blakely-Sokoloff's expense. The statute of limitations, with extraordinary or exceptional circumstances has always overridden time-barred defenses. Surely, the acts committed by

your client will shock the conscious of jurors. Suffice to say that this will be the outcome in this situation as well.

In any event, Blakely-Sokoloff will eventually be compelled to step forward and explain their actions before (12) people that will ultimately rule that "enough is enough" of toying around with someone's life.

Sincerely,

Harris Winns

---

Start your day with Yahoo! - make it your home page



Harris Winns v. Blakely, Sokoloff, Taylor & Zafman

# EXHIBIT

# F

## 62.0 QUESTION AND PROBLEM RESOLUTION PROCEDURE

### 62.1 PROCEDURE

A basic management philosophy of the Firm has always been to keep communication open between our employees and management. At one time or another, employees may have a question or complaint concerning their employment with the Firm. We believe a great majority of such questions or complaints can be resolved through discussion on a person-to-person basis with the people who have authority to resolve such matters. Usually a friendly talk with one's supervisor will resolve the matter. To avoid misunderstandings and to keep the lines of communication open, the following procedure for processing questions and complaints has been established:

- Step One: If an employee has a problem, talk it over first with his/her supervisor. Give him/her the whole story as he/she sees it. The supervisor has the authority to settle most employee relations questions arising in his/her area of responsibility.
- Step Two: If no solution is possible, the Office Administrator of the office in which the employee is employed and the Human Resources Department are available for any problem that has not been, or cannot be, resolved at the supervisory level.
- Step Three: If the employee is not satisfied with the solution offered by Steps One and Two above, employees are encouraged to bring the matter to the attention of the Director of Administration or a partner of the Firm whom the employee feels comfortable approaching.

# EXHIBIT

# G

## 52.0 RULES AND STANDARDS OF CONDUCT

For the safety and well-being of all our employees, the Firm has established rules and standards of conduct which must be followed to insure the orderly and efficient operation of our law practice. If an employee commits any material violation of any of such rules or standards of conduct, appropriate disciplinary measures will be taken. In certain circumstances, immediate termination may result. In determining the appropriate response to a violation of its rules or standards of conduct, the Firm will take into consideration such factors as the impact of the violation on the Firm, the extent of damage caused and the circumstances surrounding the violation. Disciplinary actions may include verbal reprimand, formal written reprimand, disciplinary suspension and termination. In the latter connection, we remind employees that the Firm is an employment-at-will employer, and employment can be terminated at any time with or without cause by either the Firm or the employee.

Although it is not possible to provide an exhaustive list of all types of impermissible conduct and performance, the following are some examples of behavior which are impermissible and will lead to disciplinary action up to and including immediate discharge.

1. Possession, distribution, sale, use or being under the influence of alcoholic beverages or illegal drugs while on the Firm's premises or the premises of a client, while on duty, or while operating a vehicle leased or owned by the Firm.
2. Stealing or attempting to steal the Firm's property or the property of any other employee or client of the Firm.
3. Bringing into any office of the Firm or onto the premises of any client, firearms or concealed weapons of any kind, unless lawfully permitted to do so in accordance with state and federal law.
4. Fighting, scuffling, or indulging in horseplay.

5. Removing property belonging to the Firm from any office or storage facility of the Firm without approval of a supervisor or other person of authority in the Firm.
6. Intentionally destroying or damaging any property, files, records or documents belonging to the Firm or to any client of the Firm; or destroying or damaging the property of any other employee.
7. Insubordination, including improper conduct toward a supervisor or refusal to perform tasks assigned by a supervisor in the appropriate manner.
8. Intentionally falsifying (i) any material fact, by false statement or omission, in an employment application or health questionnaire; or (ii) any entry on a time sheet, billing record, or any other document required by the Firm.
9. Being the subject of excessive garnishments or other actions against the Firm's payroll (defined as two (2) or more) which involve the Firm in the demands or claims of an employee's creditors, or which may subject the Firm to the risk of possible legal actions by such creditors.
10. Failing to observe safety rules established by the Firm so as to endanger the well-being of other employees or the property of the Firm or that of its employees or clients.
11. Excessive tardiness or absenteeism, excessive socializing; or making and/or receiving excessive personal telephone calls.
12. Violating the confidentiality of any information belonging to the Firm or any of its clients by disclosing such information to persons outside the Firm, or by providing documents or files of the Firm, or copies of the same, to any outside person.
13. Threatening, intimidating, coercing, harassing, or otherwise interfering with the work of fellow employees, or indulging in excessive or malicious gossip.

Harris Winns v. Blakely, Sokoloff, Taylor & Zafman

# EXHIBIT

# H

### 1.0 EQUAL EMPLOYMENT OPPORTUNITY



It is the policy of the Firm to employ, retain, promote, layoff or terminate and otherwise treat all employees and job applicants solely on the basis of merit, competency, qualifications and work performance. In other words, all employment decisions, including hiring, firing, promotions, job assignments, titles, responsibilities and compensation, are made without regard to any individual's sex, race, color, religion, national origin, ancestry, citizenship, pregnancy, age, marital status, medical condition, physical disability, mental disability, sexual orientation, or any other characteristic protected under state or federal law.

Harris Winns v. Blakely, Sokoloff, Taylor & Zafman

# EXHIBIT

# I



**From:** "Laura Innes" <linnes@sgilaw.com>  Add to Address Book  Add Mobile Alert  
**To:** "Harris Winns" <hwinns@yahoo.com>  
**Subject:** RE: Hi Laura  
**Date:** Mon, 1 Aug 2005 08:36:29 -0700

Hi Harris,

I expect to be able to get back to you relatively quickly.

Laura

Laura E. Innes  
Simpson, Garrity & Innes PC  
601 Gateway Blvd., Suite 950  
South San Francisco, CA 94080  
(650) 615-4860  
(650) 615-4861(fax)  
linnes@sgilaw.com

\*\*\*\*\*

This message contains information which may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose the message or any information contained in the message to anyone. If you have received this message in error, please advise the sender by reply e-mail and delete the message. If you are the intended recipient, please be advised that the content of this message is subject to access, review and disclosure by the sender's e-mail administrators.

\*\*\*\*\*

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**From:** Harris Winns [mailto:hwinns@yahoo.com]

**Sent:** Friday, July 29, 2005 1:40 PM

**To:** linnes@sgilaw.com

**Subject:** Hi Laura

Good afternoon Laura,

It's been three weeks since our last correspondence. I was wondering if you've had any luck relative to the subject matter that was discussed previously?

Have a blessed weekend,

Harris Winns

---

Harris Winns v. Blakely, Sokoloff, Taylor & Zafman

# EXHIBIT

# J

MEMORANDUM

TO: Harris Winns  
FROM: Candace Mielke  
DATE: February 14, 2002

After further consideration of the events which occurred yesterday, and discussion with the management of this Firm, we have come to the unfortunate conclusion that it will not be possible for you and Anthony Intil to continue to work together in the productive and cooperative manner that is necessary for the department to function effectively. The degree of hostility and recriminations expressed in the altercation between the two of you yesterday was so serious as to permanently and irrevocably erode the atmosphere of mutual respect and trust that is important for our work team.

It was difficult for me to contemplate having to let one of you go, however, due to the seniority and level of responsibility of the other employee together with his knowledge of the network and Firm procedures, the choice is that you will be the one to leave. Therefore, effective today, February 14, 2002, we are terminating your employment with the Firm.

Today you are being given your final paycheck representing payment for your time up to and including today, a separate check for your unused vacation and sick/personal leave accrual, plus two weeks of severance pay.

Harris Winns v. Blakely, Sokoloff, Taylor & Zafman

# EXHIBIT

# K

Blakely, Sokoloff, Taylor & Zafman LLP  
Performance Evaluation Form

Employee's Name: Harris Winns	Evaluator: Candace C Mielke
Position: Systems Support Engineer	Hire Date:
Period Reviewed: Jan 01 - Dec01	

The scale below is to be used as a guideline for rating each of the following categories. The scale is from 1 to 6, with 1 indicating "Unsatisfactory" performance, and 6 indicating "Exceptional" performance. Fill in the box with the number corresponding to the rating which best represents your assessment of the employee's performance in each individual area and indicate your comments.

1	2	3	4	5	6
Unsatisfactory	Marginal	Acceptable	Good	Commendable	Exceptional

Labell

**Work Quality:** Factors include frequency of errors in work product and degree and consistency of care regarding quality of work produced.

5

Comments (indicate areas of desired growth and professional strengths):

Accomplishes task with success – takes very good notes when learning a new task thus to eliminate frequency of errors. Is extremely resourceful, and recognizes opportunities to further work towards better work methods, demonstrates exceptional work habits

**Productivity:** Factors include volume of work completed in a timely matter, efficient use of time, and attention to complex as well as routine tasks.

5

Comments (indicate areas of desired growth and professional strengths):

Performs work at a high achievement level and is fast and productive. Continues to complete assigned tasks in a efficient manner.

6

Comments (indicate areas of desired growth and professional strengths):

Very reliable in attendance – punctual – willing to come into work early and/ or stay late when needed to execute and complete time critical problems and assist with office moves.  
Dependable and accurate in carrying out responsibilities to the best conclusion for customers.  
Fully accepts all responsibilities and can be relied upon to work towards schedules and deadlines. Continues to display rigid self-discipline.

**Knowledge and Skills**

Factors include knowledge of job requirements and administrative procedures; diligence in following current procedures; application of knowledge and skills to job; and implementation of new procedures.

5

Comments (indicate areas of desired growth and professional strengths):

Continues to build knowledge base of new technologies. Has shown great initiative in this area.

**Initiative:**

Factors include resourcefulness; working independently (within capabilities and authority), generating own systems, checklists, etc.; and seeking additional responsibility.

5

Comments (indicate areas of desired growth and professional strengths):

Harris demonstrates a good level of initiative with his projects and tasks. Displays self-reliance with learning new tasks independently. I feel Harris is ready to take on more direction within the Department

and Teamwork: and helpfulness to co-workers.

4

Comments (indicate areas of desired growth and professional strengths):

Improvements have been made in this area over the course of the year. Becoming more team oriented. I could see some more effort made in this direction but thus far, it has been a great improvement from the past.

**Communication Skills:**

Factors include written and verbal communication skills, listening skills and consideration of others' views.

5

Comments (indicate areas of desired growth and professional strengths):

Greatly improved communication over the year. Is quick to provide feedback and to communicate to end users regarding their requests. Is thoughtful in his written communications to end users to make sure the correct message is coming through and understood.

**Work Under Pressure:**

Factors include performance and efficiency when under pressure, including prioritizing tasks, meeting deadlines; and making sound judgments within the scope of capabilities and authority.

5

Comments (indicate areas of desired growth and professional strengths):

Can easily grasp and ascertain the importance and priority of requests made and is efficient in handling work thrown in his direction that is outside the norm. Gives undivided attention and handles issues professionally and with careful thought. Continue towards building confidence when handling very tricky issues..



**Planning and  
Organization:**

Factors include organizing work flow and work area; managing files and documents; and meeting scheduled deadlines and time estimates.

5

Comments (indicate areas of desired growth and professional strengths):

Displays an organized approach to the job – takes excellent notes - keeps an organized desk in a disorganized area – encourage continued attention to details in all aspects of the IS department - Harris is well organized, very orderly and systematic. Is methodical in planning and performing tasks to strive towards making deadlines and managing work-flow

**Professionalism:**

Factors include office demeanor; working relationship with others; relationship with clients; relationship with supervisor(s), and appropriateness of attire and appearance.

5

Comments (indicate areas of desired growth and professional strengths):

Very professional with end users via phone and email correspondence – performs follow up calls with end users demonstrating good customer service

**Overall Performance**

5

Comments (indicate areas of desired growth and professional strengths):

Harris has had a great year at BSTZ. He is becoming more involved, more hands on and continues to work on new avenues of technology

## Employee's Comments

Comments

What areas would you like the Firm to improve upon and what steps would you suggest?

*Employment at Blakely, Sokoloff, Taylor & Zafman LLP is at-will. Either you or the Firm may terminate this employment relationship at any time, with or without notice, and with or without cause. The nature or status of your employment may also be altered by the Firm on an at-will basis.*

Signatures:

Evaluator: \_\_\_\_\_

Date: \_\_\_\_\_

Employee: \_\_\_\_\_

Date: \_\_\_\_\_

(Employee's signature indicates only that the employee has read the above evaluation)

Copy to: \_\_\_\_\_ Employee \_\_\_\_\_ Personnel File

# EXHIBIT

# L

## 2.0 NO HARASSMENT

The Firm is committed to providing a productive work environment that is free from unlawful discrimination and harassment. We do not take this commitment lightly. In keeping with this objective, the Firm maintains a strict policy prohibiting unlawful harassment, including harassment based on any of the following categories: race, color, religion, sex, pregnancy, disability, medical condition, national origin, ancestry, age, sexual orientation or marital status. Inappropriate conduct based on any of these categories by the Firm or any employee that can be reasonably interpreted as creating an intimidating, offensive or hostile work environment will not be tolerated. This policy applies to all Firm agents and employees, including supervisors and non-supervisory employees.

Illegal harassment based on any of the categories listed above, or any other characteristic protected by state or federal law, is not only unlawful but also morally objectionable and is prohibited.

### 2.1 DEFINITION

In this section, special attention is paid to the prohibition of sexual harassment.

#### 2.1.1 Responsibility Of Supervisors, Managers

Each supervisor and manager has a responsibility to keep the workplace free of any form of unlawful harassment. This section addresses sexual harassment in particular. No employee, including a supervisor or manager, is to threaten or insinuate, either explicitly or implicitly, that an employee's refusal or willingness to submit to sexual advances will affect the employee's terms or conditions of employment.

### 2.1.2 Definition Of Sexual Harassment

Sexual harassment is defined as any unwelcome sexual advances, requests for sexual favors and other verbal, physical or visual conduct of a sexual nature which occurs under any one of three circumstances:

1. Submission is made either explicitly or implicitly a term or condition of employment;
2. Submission or rejection by an employee is used as a basis for employment decisions affecting the employee; or
3. Such conduct substantially interferes with an employee's work performance or creates an intimidating, hostile, or otherwise offensive working environment.

2.1.3 For the purpose of further clarification, sexual harassment, whether committed by supervisors, managers, non-supervisory employees, or non-employees, includes, but is not limited to:

1. Making unwelcome written, verbal, physical and/or visual contact with sexual overtones.
  - a. Verbal abuse of a sexual nature. (Examples: sexually suggestive jokes, teasing or ridicule, innuendoes, etc.).
  - b. Demeaning, insulting, intimidating or sexually suggestive comments about an individual's dress or body.
  - c. The display in the workplace of demeaning, insulting, intimidating or sexually suggestive objects or pictures, including nude or partially nude photographs. (Examples: sexually suggestive calendars, cartoons, posters, etc.).

- d. Demeaning, insulting, intimidating or sexually suggestive written, recorded or electronically transmitted messages. (Examples: sexually suggestive or obscene letters, notes, invitations, etc.).
2. Continuing to express sexual or romantic interest after being informed that the interest is unwelcome.
3. Making reprisals, threats of reprisal, or implied threats of reprisal following or in anticipation of a negative response. (Examples: implying or actually withholding support for an appointment, promotion or change of assignment, or suggesting a poor performance evaluation report will be prepared).
4. Engaging in implicit or explicit coercive sexual behavior which is used to control, influence or affect the career, salary and/or work environment of another employee.
5. Offering favors of employment benefits, such as promotions, favorable performance evaluations, favorable assigned duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.

Any of the above conduct, or other offensive conduct, directed at individuals because of their race, color, age or any other characteristic protected by state or federal law is also prohibited.

## **2.2 COMPLAINT PROCEDURE**

### **2.2.1 Employee Relations Committee**

The Firm has established an Employee Relations Committee to be responsible for receiving, investigating and resolving to the extent possible complaints relating to violations of this No Harassment Policy. The Firm-designated

members of the Employee Relations committee are listed in Appendix A of this Manual.

2.2.2 Any employee who believes that the actions or words of a coworker, supervisor, agent of the Firm, or any individual doing business with the Firm, may constitute a deviation from this policy should immediately report such deviation to any member of the Employee Relations Committee. Such employees should not fear any reprisal. Reports to the Employee Relations Committee may be done on an informal basis and discussions will be held in confidence to the extent reasonably possible. When it is believed to be in the best interest of the employee(s) involved and/or the Firm, the Committee member receiving the complaint shall promptly notify the other members of the Committee. If any member of the Committee is unavailable, the Committee will proceed without him or her. Employees, supervisors, and/or managers who become aware of any deviation from this policy must immediately advise a member of the Employee Relations Committee. In this way, the Firm can ensure that immediate and appropriate action is taken.

2.2.3 After a complaint is received, an internal investigation by the Employee Relations Committee will be undertaken immediately. The investigation will be conducted in as impartial and confidential a manner as possible. Employees are required to cooperate in any investigation. A timely resolution of each complaint should be reached and communicated to the parties involved. Retaliation against any employee for filing a complaint or for participating in an investigation is strictly prohibited.

2.2.4 Any employee, supervisor or manager who is found to have violated this policy will be subject to appropriate disciplinary action, up to and including termination. The Firm prohibits any form of retaliation against employees for bringing complaints or providing information about harassment. However, if an investigation of a complaint shows that the complaint or information was intentionally false, the individual who provided such false information will be subject to disciplinary action, up to and including termination.

2.2.5 This policy does not alter the employment-at-will relationship in any way.

2.2.6 Legal remedies and complaint procedures related to sexual harassment are also available through the Department of the Equal Employment Opportunity Commission and the Department of Fair Employment and Housing. These procedures and information on how to contact both agencies are explained in the brochures entitled "Sexual Harassment Hurts Everyone" and "Sexual Harassment Is Forbidden By Law." These brochures have been provided to each employee and are required reading. Review them carefully and become familiar with their provisions.



# EXHIBIT

# M

EEOC Form 161-B (3/98)

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)**

To: **Harris Winns**  
**2610 Sierra Vista Court**  
**San Jose, CA 95116**

From: **San Jose Local Office**  
**96 North Third Street, Suite 200**  
**San Jose, CA 95112**



On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.

EEOC Representative

Telephone No.

**556-2007-00848**

**Juan C. Vaca,**  
**Investigator**

**(408) 291-4236**

*(See also the additional information enclosed with this form.)*

**NOTICE TO THE PERSON AGGRIEVED:**

**Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA):** This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA must be filed in a federal or state court **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)



More than 180 days have passed since the filing of this charge.



Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.



The EEOC is terminating its processing of this charge.



The EEOC will continue to process this charge.

**Age Discrimination in Employment Act (ADEA):** You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:



The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court **WITHIN 90 DAYS** of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.

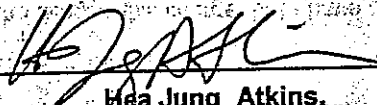


The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

**Equal Pay Act (EPA):** You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

  
**Hea Jung Atkins,**  
**Local Office Director**

**August 17, 2007**

(Date Mailed)

Enclosures(s)

cc:

**BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP**  
**Director of Human Resources**  
**1279 Oakmead Pkwy.**  
**Sunnyvale, CA 94086**

Enclosure with EEOC  
Form 161-B (3/98)

# **INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.  
If you also plan to sue claiming violations of State law, please be aware that time limits and other  
provisions of State law may be shorter or more limited than those described below.)*

## **PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), or the Age Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should keep a record of this date. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed within 90 days of the date this Notice was mailed to you (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

## **PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):**

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment back pay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/00 to 12/1/00, you should file suit before 7/1/02 -- not 12/1/02 -- in order to recover unpaid wages due for July 2000. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

## **ATTORNEY REPRESENTATION -- Title VII and the ADA:**

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.



## **ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:**

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, please make your review request within 6 months of this Notice. (Before filing suit, any request should be made within the next 90 days.)

**IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.**

# EXHIBIT

# N

**From:** "Laura E. Innes" <linnes@sgilaw.com>  Add to Address Book  Add Mobile Alert  
**To:** "Harris Winns" <hwinns@yahoo.com>  
**Subject:** RE: Hi Laura  
**Date:** Wed, 22 Jun 2005 15:20:21 -0700

Hello Mr. Winns,

From your explanation below, it appears that you are no longer represented by Ms. Whitaker (or any other lawyer). If you are represented by legal counsel, please let me know, in that event, I cannot communicate with you directly, but must communicate through your attorney -- this is an ethical rule we must follow.

I am forwarding your email to BSTZ to discuss the issue with the firm. I will endeavor to get back to you within the next week or so. That is not a "hard and fast" date for a response -- I do not know if folks are out on vacations right now -- it's that time of year. I may need to wait for folks to get back, etc.

Regards,

Laura Innes

-----Original Message-----

**From:** Harris Winns [mailto:hwinns@yahoo.com]

**Sent:** Wednesday, June 22, 2005 1:52 PM

**To:** linnes@sgilaw.com

**Subject:** Hi Laura

Hi Laura,

I was the defendant in a restraining order/alleged harassment case against Blakely, Sokoloff, Taylor & Zafman, (#CV806829) in April of 2002. Shortly after the judge made her decision that the case should move forward, I retained Marion Whitaker (San Jose) as my attorney. A few days later, a stipulated order was drawn with the advice of my attorney. The stipulation in essence states that This order will not affect or place a barrier in any manner that will stifle my efforts to gain employment as a result of this stipulation. Laura, you drew up an agreement that BSTZ will not disparage me if an employer were to call them (BSTZ) regarding a reference check or character assessment. Well, in most circumstances, it probably didn't get that far because once a restraining order is displayed during a background check, the potential employer probably figured, "why bother" to further extend an employment offer to someone who has violent tendencies. This order has painted a very distorted and inaccurate picture of me, which has caused my family and

I to suffer. I stated in the judges' chamber that I was defending myself after my co-worker began to approach me with both of his fists clenched. More fundamentally, defending yourself against an attack on your person is protected activity.

Well Laura, due to this order, I've been out of work for over (3) years. I'm married with a (1 ½) year, old (2 ½) year old and an (11) year old Stepson. My wife has been employed throughout this entire period. Her heroic every day efforts have kept our family intact, although we are living from pay-check to pay-check. My family has suffered a great deal over the past three years. Moreover, the order expired on April 30<sup>th</sup> of this year. Prior to the expiration date, my wife and I were filled with an abundance of optimism. We wholeheartedly believed that with the encroachment of expiration date, that I would be able to get a job and begin to provide for the family. Well, it hasn't changed anything. When potential employees conduct a background search and it displays an expired restraining order, the interest level of potential employee begin to wane. I've gone through this scenario hundreds of times since the order was filed.

Laura, what would you do in my situation? Would you prepare to defend yourself against someone that's approaching you in an offensive and violent manner? Would you be outraged if someone harmed you career and subsequently was unable to provide for your family because of your former employer's "pack of lies"? What would be your reaction if the actions of your former employer were defensive barriers, utilized in a manner to make themselves secure from lawsuits of former employers"?

Laura, I'm asking for your assistance in removing the vestiges of an incident that's over three years old that hasn't served any purpose but,... to strangle and suffocate the hopes and dreams of my family. Laura, I ask for the goodness in your heart, so that the deeds of BSTZ wouldn't be on your conscious. My wife and I have a very small savings, if its possible to come to some agreement relative to this situation, we'll pay monthly installments if you'd agree to assist us.

Sincerely,

Harris Winns